

110TH CONGRESS
2D SESSION

H. R. 7201

To amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2008

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Energy Improvement and Extension Act of 2008”.

6 (b) **REFERENCE.**—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is
8 expressed in terms of an amendment to, or repeal of, a
9 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-
 2 ternal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

Sec. 101. Renewable energy credit.

Sec. 102. Production credit for electricity produced from marine renewables.

Sec. 103. Energy credit.

Sec. 104. Credit for residential energy efficient property.

Sec. 105. Special rule to implement FERC and State electric restructuring pol-
 icy.

PART 2—CARBON MITIGATION PROVISIONS

Sec. 111. Expansion and modification of advanced coal project investment cred-
 it.

Sec. 112. Expansion and modification of coal gasification investment credit.

Sec. 113. Temporary increase in coal excise tax.

Sec. 114. Special rules for refund of the coal excise tax to certain coal pro-
 ducers and exporters.

Sec. 115. Carbon audit of the tax code.

Subtitle B—Transportation and Domestic Fuel Security Provisions

Sec. 121. Inclusion of cellulosic biofuel in bonus depreciation for biomass eth-
 anol plant property.

Sec. 122. Credits for biodiesel and renewable diesel.

Sec. 123. Clarification that credits for fuel are designed to provide an incentive
 for United States production.

Sec. 124. Credit for new qualified plug-in electric drive motor vehicles.

Sec. 125. Exclusion from heavy truck tax for idling reduction units and ad-
 vanced insulation.

Sec. 126. Transportation fringe benefit to bicycle commuters.

Sec. 127. Alternative fuel vehicle refueling property credit.

Sec. 128. Certain income and gains relating to alcohol fuels and mixtures, bio-
 diesel fuels and mixtures, and alternative fuels and mixtures
 treated as qualifying income for publicly traded partnerships.

Subtitle C—Energy Conservation and Efficiency Provisions

Sec. 131. Credit for nonbusiness energy property.

Sec. 132. Energy efficient commercial buildings deduction.

Sec. 133. Modifications of energy efficient appliance credit for appliances pro-
 duced after 2007.

Sec. 134. Accelerated recovery period for depreciation of smart meters and
 smart grid systems.

Sec. 135. Qualified green building and sustainable design projects.

TITLE II—REVENUE PROVISIONS

Sec. 201. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 202. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.

Sec. 203. Broker reporting of customer's basis in securities transactions.

Sec. 204. Increase and extension of Oil Spill Liability Trust Fund tax.

Sec. 205. Time for payment of corporate estimated taxes.

1 **TITLE I—ENERGY TAX**
 2 **INCENTIVES**
 3 **Subtitle A—Energy Production**
 4 **Incentives**
 5 **PART 1—RENEWABLE ENERGY INCENTIVES**

6 **SEC. 101. RENEWABLE ENERGY CREDIT.**

7 (a) EXTENSION OF CREDIT.—

8 (1) WIND FACILITIES.—Paragraph (1) of section
 9 tion 45(d) is amended by striking “January 1,
 10 2009” and inserting “January 1, 2010”.

11 (2) OTHER FACILITIES.—Each of the following
 12 provisions of section 45(d) is amended by striking
 13 “January 1, 2009” and inserting “October 1,
 14 2011”:

15 (A) Clauses (i) and (ii) of paragraph
 16 (2)(A).

17 (B) Clauses (i)(I) and (ii) of paragraph
 18 (3)(A).

19 (C) Paragraph (4).

20 (D) Paragraph (5).

1 (E) Paragraph (6).

2 (F) Paragraph (7).

3 (G) Subparagraphs (A) and (B) of para-
4 graph (9).

5 (b) MODIFICATION OF CREDIT PHASEOUT.—

6 (1) REPEAL OF PHASEOUT.—Subsection (b) of
7 section 45 is amended—

8 (A) by striking paragraph (1), and

9 (B) by striking “the 8 cent amount in
10 paragraph (1),” in paragraph (2) thereof.

11 (2) LIMITATION BASED ON INVESTMENT IN FA-
12 CILITY.—Subsection (b) of section 45 is amended by
13 inserting before paragraph (2) the following new
14 paragraph:

15 “(1) LIMITATION BASED ON INVESTMENT IN
16 FACILITY.—

17 “(A) IN GENERAL.—In the case of any
18 qualified facility originally placed in service
19 after December 31, 2009, the amount of the
20 credit determined under subsection (a) for any
21 taxable year with respect to electricity produced
22 at such facility shall not exceed the product
23 of—

24 “(i) the applicable percentage with re-
25 spect to such facility, multiplied by

1 “(ii) the eligible basis of such facility.

2 “(B) CARRYFORWARD OF UNUSED LIMITA-
3 TION AND EXCESS CREDIT.—

4 “(i) UNUSED LIMITATION.—If the
5 limitation imposed under subparagraph (A)
6 with respect to any facility for any taxable
7 year exceeds the prelimitation credit for
8 such facility for such taxable year, the lim-
9 itation imposed under subparagraph (A)
10 with respect to such facility for the suc-
11 ceeding taxable year shall be increased by
12 the amount of such excess.

13 “(ii) EXCESS CREDIT.—If the
14 prelimitation credit with respect to any fa-
15 cility for any taxable year exceeds the limi-
16 tation imposed under subparagraph (A)
17 with respect to such facility for such tax-
18 able year, the credit determined under sub-
19 section (a) with respect to such facility for
20 the succeeding taxable year (determined
21 before the application of subparagraph (A)
22 for such succeeding taxable year) shall be
23 increased by the amount of such excess.
24 With respect to any facility, no amount
25 may be carried forward under this clause

1 to any taxable year beginning after the 10-
2 year period described in subsection
3 (a)(2)(A)(ii) with respect to such facility.

4 “(iii) PRELIMINATION CREDIT.—The
5 term ‘prelimination credit’ with respect to
6 any facility for a taxable year means the
7 credit determined under subsection (a)
8 with respect to such facility for such tax-
9 able year, determined without regard to
10 subparagraph (A) and after taking into ac-
11 count any increase for such taxable year
12 under clause (ii).

13 “(C) APPLICABLE PERCENTAGE.—For
14 purposes of this paragraph—

15 “(i) IN GENERAL.—The term ‘applica-
16 ble percentage’ means, with respect to any
17 facility, the appropriate percentage pre-
18 scribed by the Secretary for the month in
19 which such facility is originally placed in
20 service.

21 “(ii) METHOD OF PRESCRIBING AP-
22 PPLICABLE PERCENTAGE.—The applicable
23 percentage prescribed by the Secretary for
24 any month under clause (i) shall be the
25 percentage which yields over a 10-year pe-

1 riod amounts of limitation under subpara-
2 graph (A) which have a present value
3 equal to 35 percent of the eligible basis of
4 the facility.

5 “(iii) METHOD OF DISCOUNTING.—

6 The present value under clause (ii) shall be
7 determined—

8 “(I) as of the last day of the 1st
9 year of the 10-year period referred to
10 in clause (ii),

11 “(II) by using a discount rate
12 equal to the greater of 110 percent of
13 the Federal long-term rate as in effect
14 under section 1274(d) for the month
15 preceding the month for which the ap-
16 plicable percentage is being pre-
17 scribed, or 4.5 percent, and

18 “(III) by taking into account the
19 limitation under subparagraph (A) for
20 any year on the last day of such year.

21 “(D) ELIGIBLE BASIS.—For purposes of
22 this paragraph—

23 “(i) IN GENERAL.—The term ‘eligible
24 basis’ means, with respect to any facility,
25 the sum of—

1 “(I) the basis of such facility de-
2 termined as of the time that such fa-
3 cility is originally placed in service,
4 and

5 “(II) the portion of the basis of
6 any shared qualified property which is
7 properly allocable to such facility
8 under clause (ii).

9 “(ii) RULES FOR ALLOCATION.—For
10 purposes of subclause (II) of clause (i), the
11 basis of shared qualified property shall be
12 allocated among all qualified facilities
13 which are projected to be placed in service
14 and which require utilization of such prop-
15 erty in proportion to projected generation
16 from such facilities.

17 “(iii) SHARED QUALIFIED PROP-
18 ERTY.—For purposes of this paragraph,
19 the term ‘shared qualified property’ means,
20 with respect to any facility, any property
21 described in section 168(e)(3)(B)(vi)—

22 “(I) which a qualified facility will
23 require for utilization of such facility,
24 and

1 “(II) which is not a qualified fa-
2 cility.

3 “(iv) SPECIAL RULE RELATING TO
4 GEOTHERMAL FACILITIES.—In the case of
5 any qualified facility using geothermal en-
6 ergy to produce electricity, the basis of
7 such facility for purposes of this paragraph
8 shall be determined as though intangible
9 drilling and development costs described in
10 section 263(c) were capitalized rather than
11 expensed.

12 “(E) SPECIAL RULE FOR FIRST AND LAST
13 YEAR OF CREDIT PERIOD.—In the case of any
14 taxable year any portion of which is not within
15 the 10-year period described in subsection
16 (a)(2)(A)(ii) with respect to any facility, the
17 amount of the limitation under subparagraph
18 (A) with respect to such facility shall be re-
19 duced by an amount which bears the same ratio
20 to the amount of such limitation (determined
21 without regard to this subparagraph) as such
22 portion of the taxable year which is not within
23 such period bears to the entire taxable year.

24 “(F) ELECTION TO TREAT ALL FACILITIES
25 PLACED IN SERVICE IN A YEAR AS 1 FACIL-

1 ITY.—At the election of the taxpayer, all quali-
2 fied facilities which are part of the same project
3 and which are originally placed in service dur-
4 ing the same calendar year shall be treated for
5 purposes of this section as 1 facility which is
6 originally placed in service at the mid-point of
7 such year or the first day of the following cal-
8 endar year.”.

9 (c) TRASH FACILITY CLARIFICATION.—Paragraph
10 (7) of section 45(d) is amended—

11 (1) by striking “facility which burns” and in-
12 serting “facility (other than a facility described in
13 paragraph (6)) which uses”, and

14 (2) by striking “COMBUSTION”.

15 (d) EXPANSION OF BIOMASS FACILITIES.—

16 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-
17 graph (3) of section 45(d) is amended by redesign-
18 nating subparagraph (B) as subparagraph (C) and
19 by inserting after subparagraph (A) the following
20 new subparagraph:

21 “(B) EXPANSION OF FACILITY.—Such
22 term shall include a new unit placed in service
23 after the date of the enactment of this subpara-
24 graph in connection with a facility described in
25 subparagraph (A), but only to the extent of the

1 increased amount of electricity produced at the
2 facility by reason of such new unit.”.

3 (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-
4 graph (2) of section 45(d) is amended by redesi-
5 gnating subparagraph (B) as subparagraph (C) and
6 inserting after subparagraph (A) the following new
7 subparagraph:

8 “(B) EXPANSION OF FACILITY.—Such
9 term shall include a new unit placed in service
10 after the date of the enactment of this subpara-
11 graph in connection with a facility described in
12 subparagraph (A)(i), but only to the extent of
13 the increased amount of electricity produced at
14 the facility by reason of such new unit.”.

15 (e) MODIFICATION OF RULES FOR HYDROPOWER
16 PRODUCTION.—Subparagraph (C) of section 45(c)(8) is
17 amended to read as follows:

18 “(C) NONHYDROELECTRIC DAM.—For pur-
19 poses of subparagraph (A), a facility is de-
20 scribed in this subparagraph if—

21 “(i) the hydroelectric project installed
22 on the nonhydroelectric dam is licensed by
23 the Federal Energy Regulatory Commis-
24 sion and meets all other applicable environ-

1 mental, licensing, and regulatory require-
2 ments,

3 “(ii) the nonhydroelectric dam was
4 placed in service before the date of the en-
5 actment of this paragraph and operated
6 for flood control, navigation, or water sup-
7 ply purposes and did not produce hydro-
8 electric power on the date of the enactment
9 of this paragraph, and

10 “(iii) the hydroelectric project is oper-
11 ated so that the water surface elevation at
12 any given location and time that would
13 have occurred in the absence of the hydro-
14 electric project is maintained, subject to
15 any license requirements imposed under
16 applicable law that change the water sur-
17 face elevation for the purpose of improving
18 environmental quality of the affected wa-
19 terway.

20 The Secretary, in consultation with the Federal
21 Energy Regulatory Commission, shall certify if
22 a hydroelectric project licensed at a nonhydro-
23 electric dam meets the criteria in clause (iii).
24 Nothing in this section shall affect the stand-
25 ards under which the Federal Energy Regu-

1 latory Commission issues licenses for and regu-
2 lates hydropower projects under part I of the
3 Federal Power Act.”.

4 (f) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments made by
7 this section shall apply to property originally placed
8 in service after December 31, 2008.

9 (2) REPEAL OF CREDIT PHASEOUT.—The
10 amendments made by subsection (b)(1) shall apply
11 to taxable years ending after December 31, 2008.

12 (3) LIMITATION BASED ON INVESTMENT IN FA-
13 CILITY.—The amendment made by subsection (b)(2)
14 shall apply to property originally placed in service
15 after December 31, 2009.

16 (4) TRASH FACILITY CLARIFICATION.—The
17 amendments made by subsection (c) shall apply to
18 electricity produced and sold after the date of the
19 enactment of this Act.

20 (5) EXPANSION OF BIOMASS FACILITIES.—The
21 amendments made by subsection (d) shall apply to
22 property placed in service after the date of the en-
23 actment of this Act.

1 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
2 **DUCTION FROM MARINE RENEWABLES.**

3 (a) **IN GENERAL.**—Paragraph (1) of section 45(c) is
4 amended by striking “and” at the end of subparagraph
5 (G), by striking the period at the end of subparagraph
6 (H) and inserting “, and”, and by adding at the end the
7 following new subparagraph:

8 “(I) marine and hydrokinetic renewable en-
9 ergy.”.

10 (b) **MARINE RENEWABLES.**—Subsection (c) of sec-
11 tion 45 is amended by adding at the end the following
12 new paragraph:

13 “(10) **MARINE AND HYDROKINETIC RENEW-**
14 **ABLE ENERGY.**—

15 “(A) **IN GENERAL.**—The term ‘marine and
16 hydrokinetic renewable energy’ means energy
17 derived from—

18 “(i) waves, tides, and currents in
19 oceans, estuaries, and tidal areas,

20 “(ii) free flowing water in rivers,
21 lakes, and streams,

22 “(iii) free flowing water in an irriga-
23 tion system, canal, or other man-made
24 channel, including projects that utilize non-
25 mechanical structures to accelerate the

1 flow of water for electric power production
2 purposes, or

3 “(iv) differentials in ocean tempera-
4 ture (ocean thermal energy conversion).

5 “(B) EXCEPTIONS.—Such term shall not
6 include any energy which is derived from any
7 source which utilizes a dam, diversionary struc-
8 ture (except as provided in subparagraph
9 (A)(iii)), or impoundment for electric power
10 production purposes.”.

11 (c) DEFINITION OF FACILITY.—Subsection (d) of
12 section 45 is amended by adding at the end the following
13 new paragraph:

14 “(11) MARINE AND HYDROKINETIC RENEW-
15 ABLE ENERGY FACILITIES.—In the case of a facility
16 producing electricity from marine and hydrokinetic
17 renewable energy, the term ‘qualified facility’ means
18 any facility owned by the taxpayer—

19 “(A) which has a nameplate capacity rat-
20 ing of at least 150 kilowatts, and

21 “(B) which is originally placed in service
22 on or after the date of the enactment of this
23 paragraph and before October 1, 2011.”.

1 (d) CREDIT RATE.—Subparagraph (A) of section
2 45(b)(4) is amended by striking “or (9)” and inserting
3 “(9), or (11)”.

4 (e) COORDINATION WITH SMALL IRRIGATION
5 POWER.—Paragraph (5) of section 45(d), as amended by
6 section 101, is amended by striking “October 1, 2011”
7 and inserting “the date of the enactment of paragraph
8 (11)”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to electricity produced and sold
11 after the date of the enactment of this Act, in taxable
12 years ending after such date.

13 **SEC. 103. ENERGY CREDIT.**

14 (a) EXTENSION OF CREDIT.—

15 (1) SOLAR ENERGY PROPERTY.—Paragraphs
16 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each
17 amended by striking “January 1, 2009” and insert-
18 ing “January 1, 2017”.

19 (2) FUEL CELL PROPERTY.—Subparagraph (E)
20 of section 48(e)(1) is amended by striking “Decem-
21 ber 31, 2008” and inserting “December 31, 2016”.

22 (3) MICROTURBINE PROPERTY.—Subparagraph
23 (E) of section 48(e)(2) is amended by striking “De-
24 cember 31, 2008” and inserting “December 31,
25 2016”.

1 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
2 TERNATIVE MINIMUM TAX.—

3 (1) IN GENERAL.—Subparagraph (B) of section
4 38(c)(4) is amended by redesignating clause (vi) as
5 clause (vii), by striking “and” at the end of clause
6 (v), and by inserting after clause (v) the following
7 new clause:

8 “(vi) the credit determined under sec-
9 tion 46 to the extent that such credit is at-
10 tributable to the energy credit determined
11 under section 48, and”.

12 (2) TECHNICAL AMENDMENT.—Clause (v) of
13 section 38(c)(4)(B) is amended by striking “section
14 47 to the extent attributable to” and inserting “sec-
15 tion 46 to the extent that such credit is attributable
16 to the rehabilitation credit under section 47, but
17 only with respect to”.

18 (c) ENERGY CREDIT FOR COMBINED HEAT AND
19 POWER SYSTEM PROPERTY.—

20 (1) IN GENERAL.—Section 48(a)(3)(A) is
21 amended by striking “or” at the end of clause (iii),
22 by inserting “or” at the end of clause (iv), and by
23 adding at the end the following new clause:

24 “(v) combined heat and power system
25 property,”.

1 (2) COMBINED HEAT AND POWER SYSTEM
2 PROPERTY.—Subsection (c) of section 48 is amend-
3 ed—

4 (A) by striking “QUALIFIED FUEL CELL
5 PROPERTY; QUALIFIED MICROTURBINE PROP-
6 erty” in the heading and inserting “DEFINI-
7 TIONS”, and

8 (B) by adding at the end the following new
9 paragraph:

10 “(3) COMBINED HEAT AND POWER SYSTEM
11 PROPERTY.—

12 “(A) COMBINED HEAT AND POWER SYS-
13 TEM PROPERTY.—The term ‘combined heat and
14 power system property’ means property com-
15 prising a system—

16 “(i) which uses the same energy
17 source for the simultaneous or sequential
18 generation of electrical power, mechanical
19 shaft power, or both, in combination with
20 the generation of steam or other forms of
21 useful thermal energy (including heating
22 and cooling applications),

23 “(ii) which produces—

24 “(I) at least 20 percent of its
25 total useful energy in the form of

1 thermal energy which is not used to
2 produce electrical or mechanical power
3 (or combination thereof), and

4 “(II) at least 20 percent of its
5 total useful energy in the form of elec-
6 trical or mechanical power (or com-
7 bination thereof),

8 “(iii) the energy efficiency percentage
9 of which exceeds 60 percent, and

10 “(iv) which is placed in service before
11 January 1, 2017.

12 “(B) LIMITATION.—

13 “(i) IN GENERAL.—In the case of
14 combined heat and power system property
15 with an electrical capacity in excess of the
16 applicable capacity placed in service during
17 the taxable year, the credit under sub-
18 section (a)(1) (determined without regard
19 to this paragraph) for such year shall be
20 equal to the amount which bears the same
21 ratio to such credit as the applicable ca-
22 pacity bears to the capacity of such prop-
23 erty.

24 “(ii) APPLICABLE CAPACITY.—For
25 purposes of clause (i), the term ‘applicable

1 capacity' means 15 megawatts or a me-
2 chanical energy capacity of more than
3 20,000 horsepower or an equivalent com-
4 bination of electrical and mechanical en-
5 ergy capacities.

6 “(iii) MAXIMUM CAPACITY.—The term
7 ‘combined heat and power system property’
8 shall not include any property comprising a
9 system if such system has a capacity in ex-
10 cess of 50 megawatts or a mechanical en-
11 ergy capacity in excess of 67,000 horse-
12 power or an equivalent combination of elec-
13 trical and mechanical energy capacities.

14 “(C) SPECIAL RULES.—

15 “(i) ENERGY EFFICIENCY PERCENT-
16 AGE.—For purposes of this paragraph, the
17 energy efficiency percentage of a system is
18 the fraction—

19 “(I) the numerator of which is
20 the total useful electrical, thermal,
21 and mechanical power produced by
22 the system at normal operating rates,
23 and expected to be consumed in its
24 normal application, and

1 “(II) the denominator of which is
2 the lower heating value of the fuel
3 sources for the system.

4 “(ii) DETERMINATIONS MADE ON BTU
5 BASIS.—The energy efficiency percentage
6 and the percentages under subparagraph
7 (A)(ii) shall be determined on a Btu basis.

8 “(iii) INPUT AND OUTPUT PROPERTY
9 NOT INCLUDED.—The term ‘combined heat
10 and power system property’ does not in-
11 clude property used to transport the en-
12 ergy source to the facility or to distribute
13 energy produced by the facility.

14 “(D) SYSTEMS USING BIOMASS.—If a sys-
15 tem is designed to use biomass (within the
16 meaning of paragraphs (2) and (3) of section
17 45(c) without regard to the last sentence of
18 paragraph (3)(A)) for at least 90 percent of the
19 energy source—

20 “(i) subparagraph (A)(iii) shall not
21 apply, but

22 “(ii) the amount of credit determined
23 under subsection (a) with respect to such
24 system shall not exceed the amount which
25 bears the same ratio to such amount of

1 credit (determined without regard to this
2 subparagraph) as the energy efficiency per-
3 centage of such system bears to 60 per-
4 cent.”.

5 (3) CONFORMING AMENDMENT.—Section
6 48(a)(1) is amended by striking “paragraphs (1)(B)
7 and (2)(B)” and inserting “paragraphs (1)(B),
8 (2)(B), and (3)(B)”.

9 (d) INCREASE OF CREDIT LIMITATION FOR FUEL
10 CELL PROPERTY.—Subparagraph (B) of section 48(c)(1)
11 is amended by striking “\$500” and inserting “\$1,500”.

12 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-
13 COUNT.—

14 (1) IN GENERAL.—Paragraph (3) of section
15 48(a) is amended by striking the second sentence
16 thereof.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Paragraph (1) of section 48(c) is
19 amended by striking subparagraph (D) and re-
20 designating subparagraph (E) as subparagraph
21 (D).

22 (B) Paragraph (2) of section 48(c) is
23 amended by striking subparagraph (D) and re-
24 designating subparagraph (E) as subparagraph
25 (D).

1 (f) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall take effect on the date of the en-
5 actment of this Act.

6 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
7 IMUM TAX.—The amendments made by subsection
8 (b) shall apply to credits determined under section
9 46 of the Internal Revenue Code of 1986 in taxable
10 years beginning after the date of the enactment of
11 this Act and to carrybacks of such credits.

12 (3) COMBINED HEAT AND POWER AND FUEL
13 CELL PROPERTY.—The amendments made by sub-
14 sections (c) and (d) shall apply to periods after the
15 date of the enactment of this Act, in taxable years
16 ending after such date, under rules similar to the
17 rules of section 48(m) of the Internal Revenue Code
18 of 1986 (as in effect on the day before the date of
19 the enactment of the Revenue Reconciliation Act of
20 1990).

21 (4) PUBLIC UTILITY PROPERTY.—The amend-
22 ments made by subsection (e) shall apply to periods
23 after February 13, 2008, in taxable years ending
24 after such date, under rules similar to the rules of
25 section 48(m) of the Internal Revenue Code of 1986

1 (as in effect on the day before the date of the enact-
2 ment of the Revenue Reconciliation Act of 1990).

3 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
4 **PROPERTY.**

5 (a) EXTENSION.—Section 25D(g) is amended by
6 striking “December 31, 2008” and inserting “December
7 31, 2016”.

8 (b) REMOVAL OF LIMITATION FOR SOLAR ELECTRIC
9 PROPERTY.—

10 (1) IN GENERAL.—Section 25D(b)(1), as
11 amended by subsections (c) and (d), is amended—

12 (A) by striking subparagraph (A), and
13 (B) by redesignating subparagraphs (B)
14 through (E) as subparagraphs (A) through and
15 (D), respectively.

16 (2) CONFORMING AMENDMENT.—Section
17 25D(e)(4)(A), as amended by subsections (c) and
18 (d), is amended—

19 (A) by striking clause (i), and
20 (B) by redesignating clauses (ii) through
21 (v) as clauses (i) and (iv), respectively.

22 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

23 (1) IN GENERAL.—Section 25D(a) is amended
24 by striking “and” at the end of paragraph (2), by
25 striking the period at the end of paragraph (3) and

1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(4) 30 percent of the qualified small wind en-
4 ergy property expenditures made by the taxpayer
5 during such year.”.

6 (2) LIMITATION.—Section 25D(b)(1) is amend-
7 ed by striking “and” at the end of subparagraph
8 (B), by striking the period at the end of subpara-
9 graph (C) and inserting “, and”, and by adding at
10 the end the following new subparagraph:

11 “(D) \$500 with respect to each half kilo-
12 watt of capacity (not to exceed \$4,000) of wind
13 turbines for which qualified small wind energy
14 property expenditures are made.”.

15 (3) QUALIFIED SMALL WIND ENERGY PROP-
16 erty EXPENDITURES.—

17 (A) IN GENERAL.—Section 25D(d) is
18 amended by adding at the end the following
19 new paragraph:

20 “(4) QUALIFIED SMALL WIND ENERGY PROP-
21 erty EXPENDITURE.—The term ‘qualified small
22 wind energy property expenditure’ means an expend-
23 iture for property which uses a wind turbine to gen-
24 erate electricity for use in connection with a dwelling

1 unit located in the United States and used as a resi-
2 dence by the taxpayer.”.

3 (B) NO DOUBLE BENEFIT.—Section
4 45(d)(1) is amended by adding at the end the
5 following new sentence: “Such term shall not
6 include any facility with respect to which any
7 qualified small wind energy property expendi-
8 ture (as defined in subsection (d)(4) of section
9 25D) is taken into account in determining the
10 credit under such section.”.

11 (4) MAXIMUM EXPENDITURES IN CASE OF
12 JOINT OCCUPANCY.—Section 25D(e)(4)(A) is
13 amended by striking “and” at the end of clause (ii),
14 by striking the period at the end of clause (iii) and
15 inserting “, and”, and by adding at the end the fol-
16 lowing new clause:

17 “(iv) \$1,667 in the case of each half
18 kilowatt of capacity (not to exceed
19 \$13,333) of wind turbines for which quali-
20 fied small wind energy property expendi-
21 tures are made.”.

22 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
23 TEMS.—

24 (1) IN GENERAL.—Section 25D(a), as amended
25 by subsection (c), is amended by striking “and” at

1 the end of paragraph (3), by striking the period at
2 the end of paragraph (4) and inserting “, and”, and
3 by adding at the end the following new paragraph:

4 “(5) 30 percent of the qualified geothermal
5 heat pump property expenditures made by the tax-
6 payer during such year.”.

7 (2) LIMITATION.—Section 25D(b)(1), as
8 amended by subsection (c), is amended by striking
9 “and” at the end of subparagraph (C), by striking
10 the period at the end of subparagraph (D) and in-
11 sserting “, and”, and by adding at the end the fol-
12 lowing new subparagraph:

13 “(E) \$2,000 with respect to any qualified
14 geothermal heat pump property expenditures.”.

15 (3) QUALIFIED GEOTHERMAL HEAT PUMP
16 PROPERTY EXPENDITURE.—Section 25D(d), as
17 amended by subsection (c), is amended by adding at
18 the end the following new paragraph:

19 “(5) QUALIFIED GEOTHERMAL HEAT PUMP
20 PROPERTY EXPENDITURE.—

21 “(A) IN GENERAL.—The term ‘qualified
22 geothermal heat pump property expenditure’
23 means an expenditure for qualified geothermal
24 heat pump property installed on or in connec-

1 tion with a dwelling unit located in the United
2 States and used as a residence by the taxpayer.

3 “(B) QUALIFIED GEOTHERMAL HEAT
4 PUMP PROPERTY.—The term ‘qualified geo-
5 thermal heat pump property’ means any equip-
6 ment which—

7 “(i) uses the ground or ground water
8 as a thermal energy source to heat the
9 dwelling unit referred to in subparagraph
10 (A) or as a thermal energy sink to cool
11 such dwelling unit, and

12 “(ii) meets the requirements of the
13 Energy Star program which are in effect
14 at the time that the expenditure for such
15 equipment is made.”.

16 (4) MAXIMUM EXPENDITURES IN CASE OF
17 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as
18 amended by subsection (c), is amended by striking
19 “and” at the end of clause (iii), by striking the pe-
20 riod at the end of clause (iv) and inserting “, and”,
21 and by adding at the end the following new clause:

22 “(v) \$6,667 in the case of any quali-
23 fied geothermal heat pump property ex-
24 penditures.”.

1 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
2 IMUM TAX.—

3 (1) IN GENERAL.—Subsection (c) of section
4 25D is amended to read as follows:

5 “(c) LIMITATION BASED ON AMOUNT OF TAX;
6 CARRYFORWARD OF UNUSED CREDIT.—

7 “(1) LIMITATION BASED ON AMOUNT OF
8 TAX.—In the case of a taxable year to which section
9 26(a)(2) does not apply, the credit allowed under
10 subsection (a) for the taxable year shall not exceed
11 the excess of—

12 “(A) the sum of the regular tax liability
13 (as defined in section 26(b)) plus the tax im-
14 posed by section 55, over

15 “(B) the sum of the credits allowable
16 under this subpart (other than this section) and
17 section 27 for the taxable year.

18 “(2) CARRYFORWARD OF UNUSED CREDIT.—

19 “(A) RULE FOR YEARS IN WHICH ALL
20 PERSONAL CREDITS ALLOWED AGAINST REG-
21 ULAR AND ALTERNATIVE MINIMUM TAX.—In
22 the case of a taxable year to which section
23 26(a)(2) applies, if the credit allowable under
24 subsection (a) exceeds the limitation imposed by
25 section 26(a)(2) for such taxable year reduced

1 by the sum of the credits allowable under this
2 subpart (other than this section), such excess
3 shall be carried to the succeeding taxable year
4 and added to the credit allowable under sub-
5 section (a) for such succeeding taxable year.

6 “(B) RULE FOR OTHER YEARS.—In the
7 case of a taxable year to which section 26(a)(2)
8 does not apply, if the credit allowable under
9 subsection (a) exceeds the limitation imposed by
10 paragraph (1) for such taxable year, such ex-
11 cess shall be carried to the succeeding taxable
12 year and added to the credit allowable under
13 subsection (a) for such succeeding taxable
14 year.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 23(b)(4)(B) is amended by in-
17 serting “and section 25D” after “this section”.

18 (B) Section 24(b)(3)(B) is amended by
19 striking “and 25B” and inserting “, 25B, and
20 25D”.

21 (C) Section 25B(g)(2) is amended by strik-
22 ing “section 23” and inserting “sections 23 and
23 25D”.

24 (D) Section 26(a)(1) is amended by strik-
25 ing “and 25B” and inserting “25B, and 25D”.

1 (f) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to taxable years beginning after Decem-
5 ber 31, 2007.

6 (2) SOLAR ELECTRIC PROPERTY LIMITATION.—
7 The amendments made by subsection (b) shall apply
8 to property placed in service after the date of the en-
9 actment of this Act, in taxable years ending after
10 such date.

11 (3) APPLICATION OF EGTRRA SUNSET.—The
12 amendments made by subparagraphs (A) and (B) of
13 subsection (e)(2) shall be subject to title IX of the
14 Economic Growth and Tax Relief Reconciliation Act
15 of 2001 in the same manner as the provisions of
16 such Act to which such amendments relate.

17 **SEC. 105. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
18 **ELECTRIC RESTRUCTURING POLICY.**

19 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
20 TIES.—

21 (1) IN GENERAL.—Paragraph (3) of section
22 451(i) is amended by inserting “(before January 1,
23 2010, in the case of a qualified electric utility)”
24 after “January 1, 2008”.

1 (2) QUALIFIED ELECTRIC UTILITY.—Subsection
2 (i) of section 451 is amended by redesignating para-
3 graphs (6) through (10) as paragraphs (7) through
4 (11), respectively, and by inserting after paragraph
5 (5) the following new paragraph:

6 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
7 poses of this subsection, the term ‘qualified electric
8 utility’ means a person that, as of the date of the
9 qualifying electric transmission transaction, is
10 vertically integrated, in that it is both—

11 “(A) a transmitting utility (as defined in
12 section 3(23) of the Federal Power Act (16
13 U.S.C. 796(23))) with respect to the trans-
14 mission facilities to which the election under
15 this subsection applies, and

16 “(B) an electric utility (as defined in sec-
17 tion 3(22) of the Federal Power Act (16 U.S.C.
18 796(22))).”.

19 (b) EXTENSION OF PERIOD FOR TRANSFER OF
20 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
21 Clause (ii) of section 451(i)(4)(B) is amended by striking
22 “December 31, 2007” and inserting “the date which is
23 4 years after the close of the taxable year in which the
24 transaction occurs”.

1 (c) PROPERTY LOCATED OUTSIDE THE UNITED
2 STATES NOT TREATED AS EXEMPT UTILITY PROP-
3 erty.—Paragraph (5) of section 451(i) is amended by
4 adding at the end the following new subparagraph:

5 “(C) EXCEPTION FOR PROPERTY LOCATED
6 OUTSIDE THE UNITED STATES.—The term ‘ex-
7 empt utility property’ shall not include any
8 property which is located outside the United
9 States.”.

10 (d) EFFECTIVE DATES.—

11 (1) EXTENSION.—The amendments made by
12 subsection (a) shall apply to transactions after De-
13 cember 31, 2007.

14 (2) TRANSFERS OF OPERATIONAL CONTROL.—
15 The amendment made by subsection (b) shall take
16 effect as if included in section 909 of the American
17 Jobs Creation Act of 2004.

18 (3) EXCEPTION FOR PROPERTY LOCATED OUT-
19 SIDE THE UNITED STATES.—The amendment made
20 by subsection (c) shall apply to transactions after
21 the date of the enactment of this Act.

1 **PART 2—CARBON MITIGATION PROVISIONS**

2 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**
3 **COAL PROJECT INVESTMENT CREDIT.**

4 (a) **MODIFICATION OF CREDIT AMOUNT.**—Section
5 48A(a) is amended by striking “and” at the end of para-
6 graph (1), by striking the period at the end of paragraph
7 (2) and inserting “, and”, and by adding at the end the
8 following new paragraph:

9 “(3) 30 percent of the qualified investment for
10 such taxable year in the case of projects described
11 in clause (iii) of subsection (d)(3)(B).”.

12 (b) **EXPANSION OF AGGREGATE CREDITS.**—Section
13 48A(d)(3)(A) is amended by striking “\$1,300,000,000”
14 and inserting “\$2,250,000,000”.

15 (c) **AUTHORIZATION OF ADDITIONAL PROJECTS.**—

16 (1) **IN GENERAL.**—Subparagraph (B) of section
17 48A(d)(3) is amended to read as follows:

18 “(B) **PARTICULAR PROJECTS.**—Of the dol-
19 lar amount in subparagraph (A), the Secretary
20 is authorized to certify—

21 “(i) \$800,000,000 for integrated gas-
22 ification combined cycle projects the appli-
23 cation for which is submitted during the
24 period described in paragraph (2)(A)(i),

25 “(ii) \$500,000,000 for projects which
26 use other advanced coal-based generation

1 technologies the application for which is
2 submitted during the period described in
3 paragraph (2)(A)(i), and

4 “(iii) \$950,000,000 for advanced coal-
5 based generation technology projects the
6 application for which is submitted during
7 the period described in paragraph
8 (2)(A)(ii).”.

9 (2) APPLICATION PERIOD FOR ADDITIONAL
10 PROJECTS.—Subparagraph (A) of section 48A(d)(2)
11 is amended to read as follows:

12 “(A) APPLICATION PERIOD.—Each appli-
13 cant for certification under this paragraph shall
14 submit an application meeting the requirements
15 of subparagraph (B). An applicant may only
16 submit an application—

17 “(i) for an allocation from the dollar
18 amount specified in clause (i) or (ii) of
19 paragraph (3)(B) during the 3-year period
20 beginning on the date the Secretary estab-
21 lishes the program under paragraph (1),
22 and

23 “(ii) for an allocation from the dollar
24 amount specified in paragraph (3)(B)(iii)
25 during the 3-year period beginning at the

1 earlier of the termination of the period de-
2 scribed in clause (i) or the date prescribed
3 by the Secretary.”.

4 (3) CAPTURE AND SEQUESTRATION OF CARBON
5 DIOXIDE EMISSIONS REQUIREMENT.—

6 (A) IN GENERAL.—Section 48A(e)(1) is
7 amended by striking “and” at the end of sub-
8 paragraph (E), by striking the period at the
9 end of subparagraph (F) and inserting “; and”,
10 and by adding at the end the following new sub-
11 paragraph:

12 “(G) in the case of any project the applica-
13 tion for which is submitted during the period
14 described in subsection (d)(2)(A)(ii), the project
15 includes equipment which separates and seques-
16 ters at least 65 percent (70 percent in the case
17 of an application for reallocated credits under
18 subsection (d)(4)) of such project’s total carbon
19 dioxide emissions.”.

20 (B) HIGHEST PRIORITY FOR PROJECTS
21 WHICH SEQUESTER CARBON DIOXIDE EMIS-
22 SIONS.—Section 48A(e)(3) is amended by strik-
23 ing “and” at the end of subparagraph (A)(iii),
24 by striking the period at the end of subpara-
25 graph (B)(iii) and inserting “, and”, and by

1 adding at the end the following new subpara-
2 graph:

3 “(C) give highest priority to projects with
4 the greatest separation and sequestration per-
5 centage of total carbon dioxide emissions.”.

6 (C) RECAPTURE OF CREDIT FOR FAILURE
7 TO SEQUESTER.—Section 48A is amended by
8 adding at the end the following new subsection:

9 “(i) RECAPTURE OF CREDIT FOR FAILURE TO SE-
10 QUESTER.—The Secretary shall provide for recapturing
11 the benefit of any credit allowable under subsection (a)
12 with respect to any project which fails to attain or main-
13 tain the separation and sequestration requirements of sub-
14 section (e)(1)(G).”.

15 (4) ADDITIONAL PRIORITY FOR RESEARCH
16 PARTNERSHIPS.—Section 48A(e)(3)(B), as amended
17 by paragraph (3)(B), is amended—

18 (A) by striking “and” at the end of clause

19 (ii),

20 (B) by redesignating clause (iii) as clause

21 (iv), and

22 (C) by inserting after clause (ii) the fol-
23 lowing new clause:

24 “(iii) applicant participants who have
25 a research partnership with an eligible edu-

1 cational institution (as defined in section
2 529(e)(5)), and”.

3 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)
4 is amended by striking “INTEGRATED GASIFICATION
5 COMBINED CYCLE” in the heading and inserting
6 “CERTAIN”.

7 (d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d)
8 is amended by adding at the end the following new para-
9 graph:

10 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
11 retary shall, upon making a certification under this
12 subsection or section 48B(d), publicly disclose the
13 identity of the applicant and the amount of the cred-
14 it certified with respect to such applicant.”.

15 (e) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the amendments made by
18 this section shall apply to credits the application for
19 which is submitted during the period described in
20 section 48A(d)(2)(A)(ii) of the Internal Revenue
21 Code of 1986 and which are allocated or reallocated
22 after the date of the enactment of this Act.

23 (2) DISCLOSURE OF ALLOCATIONS.—The
24 amendment made by subsection (d) shall apply to

1 certifications made after the date of the enactment
2 of this Act.

3 (3) CLERICAL AMENDMENT.—The amendment
4 made by subsection (c)(5) shall take effect as if in-
5 cluded in the amendment made by section 1307(b)
6 of the Energy Tax Incentives Act of 2005.

7 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
8 **CATION INVESTMENT CREDIT.**

9 (a) MODIFICATION OF CREDIT AMOUNT.—Section
10 48B(a) is amended by inserting “(30 percent in the case
11 of credits allocated under subsection (d)(1)(B))” after “20
12 percent”.

13 (b) EXPANSION OF AGGREGATE CREDITS.—Section
14 48B(d)(1) is amended by striking “shall not exceed
15 \$350,000,000” and all that follows and inserting “shall
16 not exceed—

17 “(A) \$350,000,000, plus

18 “(B) \$150,000,000 for qualifying gasifi-
19 cation projects that include equipment which
20 separates and sequesters at least 75 percent of
21 such project’s total carbon dioxide emissions.”.

22 (c) RECAPTURE OF CREDIT FOR FAILURE TO SE-
23 QUESTER.—Section 48B is amended by adding at the end
24 the following new subsection:

1 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-
2 QUESTER.—The Secretary shall provide for recapturing
3 the benefit of any credit allowable under subsection (a)
4 with respect to any project which fails to attain or main-
5 tain the separation and sequestration requirements for
6 such project under subsection (d)(1).”.

7 (d) SELECTION PRIORITIES.—Section 48B(d) is
8 amended by adding at the end the following new para-
9 graph:

10 “(4) SELECTION PRIORITIES.—In determining
11 which qualifying gasification projects to certify
12 under this section, the Secretary shall—

13 “(A) give highest priority to projects with
14 the greatest separation and sequestration per-
15 centage of total carbon dioxide emissions, and

16 “(B) give high priority to applicant partici-
17 pants who have a research partnership with an
18 eligible educational institution (as defined in
19 section 529(e)(5)).”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to credits described in section
22 48B(d)(1)(B) of the Internal Revenue Code of 1986 which
23 are allocated or reallocated after the date of the enactment
24 of this Act.

1 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX.**

2 Paragraph (2) of section 4121(e) is amended—

3 (1) by striking “January 1, 2014” in subpara-
4 graph (A) and inserting “December 31, 2018”, and

5 (2) by striking “January 1 after 1981” in sub-
6 paragraph (B) and inserting “December 31 after
7 2007”.

8 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**

9 **CISE TAX TO CERTAIN COAL PRODUCERS**

10 **AND EXPORTERS.**

11 (a) REFUND.—

12 (1) COAL PRODUCERS.—

13 (A) IN GENERAL.—Notwithstanding sub-
14 sections (a)(1) and (c) of section 6416 and sec-
15 tion 6511 of the Internal Revenue Code of
16 1986, if—

17 (i) a coal producer establishes that
18 such coal producer, or a party related to
19 such coal producer, exported coal produced
20 by such coal producer to a foreign country
21 or shipped coal produced by such coal pro-
22 ducer to a possession of the United States,
23 or caused such coal to be exported or
24 shipped, the export or shipment of which
25 was other than through an exporter who
26 meets the requirements of paragraph (2),

1 (ii) such coal producer filed an excise
2 tax return on or after October 1, 1990,
3 and on or before the date of the enactment
4 of this Act, and

5 (iii) such coal producer files a claim
6 for refund with the Secretary not later
7 than the close of the 30-day period begin-
8 ning on the date of the enactment of this
9 Act,

10 then the Secretary shall pay to such coal pro-
11 ducer an amount equal to the tax paid under
12 section 4121 of such Code on such coal ex-
13 ported or shipped by the coal producer or a
14 party related to such coal producer, or caused
15 by the coal producer or a party related to such
16 coal producer to be exported or shipped.

17 (B) SPECIAL RULES FOR CERTAIN TAX-
18 PAYERS.—For purposes of this section—

19 (i) IN GENERAL.—If a coal producer
20 or a party related to a coal producer has
21 received a judgment described in clause
22 (iii), such coal producer shall be deemed to
23 have established the export of coal to a for-
24 eign country or shipment of coal to a pos-

1 session of the United States under sub-
2 paragraph (A)(i).

3 (ii) AMOUNT OF PAYMENT.—If a tax-
4 payer described in clause (i) is entitled to
5 a payment under subparagraph (A), the
6 amount of such payment shall be reduced
7 by any amount paid pursuant to the judg-
8 ment described in clause (iii).

9 (iii) JUDGMENT DESCRIBED.—A judg-
10 ment is described in this subparagraph if
11 such judgment—

12 (I) is made by a court of com-
13 petent jurisdiction within the United
14 States,

15 (II) relates to the constitu-
16 tionality of any tax paid on exported
17 coal under section 4121 of the Inter-
18 nal Revenue Code of 1986, and

19 (III) is in favor of the coal pro-
20 ducer or the party related to the coal
21 producer.

22 (2) EXPORTERS.—Notwithstanding subsections
23 (a)(1) and (c) of section 6416 and section 6511 of
24 the Internal Revenue Code of 1986, and a judgment

1 described in paragraph (1)(B)(iii) of this subsection,
2 if—

3 (A) an exporter establishes that such ex-
4 porter exported coal to a foreign country or
5 shipped coal to a possession of the United
6 States, or caused such coal to be so exported or
7 shipped,

8 (B) such exporter filed a tax return on or
9 after October 1, 1990, and on or before the
10 date of the enactment of this Act, and

11 (C) such exporter files a claim for refund
12 with the Secretary not later than the close of
13 the 30-day period beginning on the date of the
14 enactment of this Act,

15 then the Secretary shall pay to such exporter an
16 amount equal to \$0.825 per ton of such coal ex-
17 ported by the exporter or caused to be exported or
18 shipped, or caused to be exported or shipped, by the
19 exporter.

20 (b) LIMITATIONS.—Subsection (a) shall not apply
21 with respect to exported coal if a settlement with the Fed-
22 eral Government has been made with and accepted by, the
23 coal producer, a party related to such coal producer, or
24 the exporter, of such coal, as of the date that the claim
25 is filed under this section with respect to such exported

1 coal. For purposes of this subsection, the term “settlement
2 with the Federal Government” shall not include any settle-
3 ment or stipulation entered into as of the date of the en-
4 actment of this Act, the terms of which contemplate a
5 judgment concerning which any party has reserved the
6 right to file an appeal, or has filed an appeal.

7 (c) SUBSEQUENT REFUND PROHIBITED.—No refund
8 shall be made under this section to the extent that a credit
9 or refund of such tax on such exported or shipped coal
10 has been paid to any person.

11 (d) DEFINITIONS.—For purposes of this section—

12 (1) COAL PRODUCER.—The term “coal pro-
13 ducer” means the person in whom is vested owner-
14 ship of the coal immediately after the coal is severed
15 from the ground, without regard to the existence of
16 any contractual arrangement for the sale or other
17 disposition of the coal or the payment of any royal-
18 ties between the producer and third parties. The
19 term includes any person who extracts coal from
20 coal waste refuse piles or from the silt waste product
21 which results from the wet washing (or similar proc-
22 essing) of coal.

23 (2) EXPORTER.—The term “exporter” means a
24 person, other than a coal producer, who does not
25 have a contract, fee arrangement, or any other

1 agreement with a producer or seller of such coal to
2 export or ship such coal to a third party on behalf
3 of the producer or seller of such coal and—

4 (A) is indicated in the shipper's export
5 declaration or other documentation as the ex-
6 porter of record, or

7 (B) actually exported such coal to a for-
8 eign country or shipped such coal to a posses-
9 sion of the United States, or caused such coal
10 to be so exported or shipped.

11 (3) RELATED PARTY.—The term “a party re-
12 lated to such coal producer” means a person who—

13 (A) is related to such coal producer
14 through any degree of common management,
15 stock ownership, or voting control,

16 (B) is related (within the meaning of sec-
17 tion 144(a)(3) of the Internal Revenue Code of
18 1986) to such coal producer, or

19 (C) has a contract, fee arrangement, or
20 any other agreement with such coal producer to
21 sell such coal to a third party on behalf of such
22 coal producer.

23 (4) SECRETARY.—The term “Secretary” means
24 the Secretary of Treasury or the Secretary's des-
25 ignee.

1 (e) TIMING OF REFUND.—With respect to any claim
2 for refund filed pursuant to this section, the Secretary
3 shall determine whether the requirements of this section
4 are met not later than 180 days after such claim is filed.
5 If the Secretary determines that the requirements of this
6 section are met, the claim for refund shall be paid not
7 later than 180 days after the Secretary makes such deter-
8 mination.

9 (f) INTEREST.—Any refund paid pursuant to this
10 section shall be paid by the Secretary with interest from
11 the date of overpayment determined by using the overpay-
12 ment rate and method under section 6621 of the Internal
13 Revenue Code of 1986.

14 (g) DENIAL OF DOUBLE BENEFIT.—The payment
15 under subsection (a) with respect to any coal shall not ex-
16 ceed—

17 (1) in the case of a payment to a coal producer,
18 the amount of tax paid under section 4121 of the
19 Internal Revenue Code of 1986 with respect to such
20 coal by such coal producer or a party related to such
21 coal producer, and

22 (2) in the case of a payment to an exporter, an
23 amount equal to \$0.825 per ton with respect to such
24 coal exported by the exporter or caused to be ex-
25 ported by the exporter.

1 (h) APPLICATION OF SECTION.—This section applies
2 only to claims on coal exported or shipped on or after Oc-
3 tober 1, 1990, through the date of the enactment of this
4 Act.

5 **SEC. 115. CARBON AUDIT OF THE TAX CODE.**

6 (a) STUDY.—The Secretary of the Treasury shall
7 enter into an agreement with the National Academy of
8 Sciences to undertake a comprehensive review of the Inter-
9 nal Revenue Code of 1986 to identify the types of and
10 specific tax provisions that have the largest effects on car-
11 bon and other greenhouse gas emissions and to estimate
12 the magnitude of those effects.

13 (b) REPORT.—Not later than 2 years after the date
14 of enactment of this Act, the National Academy of
15 Sciences shall submit to Congress a report containing the
16 results of study authorized under this section.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section
19 \$1,500,000 for the period of fiscal years 2009 and 2010.

1 **Subtitle B—Transportation and**
2 **Domestic Fuel Security Provisions**

3 **SEC. 121. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS**
4 **DEPRECIATION FOR BIOMASS ETHANOL**
5 **PLANT PROPERTY.**

6 (a) IN GENERAL.—Paragraph (3) of section 168(l)
7 is amended to read as follows:

8 “(3) CELLULOSIC BIOFUEL.—The term ‘cel-
9 lulosic biofuel’ means any liquid fuel which is pro-
10 duced from any lignocellulosic or hemicellulosic mat-
11 ter that is available on a renewable or recurring
12 basis.”.

13 (b) CONFORMING AMENDMENTS.—Subsection (l) of
14 section 168 is amended—

15 (1) by striking “cellulosic biomass ethanol”
16 each place it appears and inserting “cellulosic
17 biofuel”,

18 (2) by striking “CELLULOSIC BIOMASS ETH-
19 ANOL” in the heading of such subsection and insert-
20 ing “CELLULOSIC BIOFUEL”, and

21 (3) by striking “CELLULOSIC BIOMASS ETH-
22 ANOL” in the heading of paragraph (2) thereof and
23 inserting “CELLULOSIC BIOFUEL”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to property placed in service after

1 the date of the enactment of this Act, in taxable years
2 ending after such date.

3 **SEC. 122. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
4 **SEL.**

5 (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and
6 6427(e)(5)(B) are each amended by striking “December
7 31, 2008” and inserting “December 31, 2009”.

8 (b) INCREASE IN RATE OF CREDIT.—

9 (1) INCOME TAX CREDIT.—Paragraphs (1)(A)
10 and (2)(A) of section 40A(b) are each amended by
11 striking “50 cents” and inserting “\$1.00”.

12 (2) EXCISE TAX CREDIT.—Paragraph (2) of
13 section 6426(c) is amended to read as follows:

14 “(2) APPLICABLE AMOUNT.—For purposes of
15 this subsection, the applicable amount is \$1.00.”.

16 (3) CONFORMING AMENDMENTS.—

17 (A) Subsection (b) of section 40A is
18 amended by striking paragraph (3) and by re-
19 designating paragraphs (4) and (5) as para-
20 graphs (3) and (4), respectively.

21 (B) Paragraph (2) of section 40A(f) is
22 amended to read as follows:

23 “(2) EXCEPTION.—Subsection (b)(4) shall not
24 apply with respect to renewable diesel.”.

1 (C) Paragraphs (2) and (3) of section
2 40A(e) are each amended by striking “sub-
3 section (b)(5)(C)” and inserting “subsection
4 (b)(4)(C)”.

5 (D) Clause (ii) of section 40A(d)(3)(C) is
6 amended by striking “subsection (b)(5)(B)”
7 and inserting “subsection (b)(4)(B)”.

8 (c) UNIFORM TREATMENT OF DIESEL PRODUCED
9 FROM BIOMASS.—Paragraph (3) of section 40A(f) is
10 amended—

11 (1) by striking “diesel fuel” and inserting “liq-
12 uid fuel”,

13 (2) by striking “using a thermal
14 depolymerization process”, and

15 (3) by striking “or D396” in subparagraph (B)
16 and inserting “, D396, or other equivalent standard
17 approved by the Secretary”.

18 (d) COPRODUCTION OF RENEWABLE DIESEL WITH
19 PETROLEUM FEEDSTOCK.—

20 (1) IN GENERAL.—Paragraph (3) of section
21 40A(f) (defining renewable diesel) is amended by
22 adding at the end the following flush sentence:

23 “Such term does not include any fuel derived from
24 coprocessing biomass with a feedstock which is not
25 biomass. For purposes of this paragraph, the term

1 'biomass' has the meaning given such term by sec-
2 tion 45K(c)(3).”.

3 (2) CONFORMING AMENDMENT.—Paragraph (3)
4 of section 40A(f) is amended by striking “(as de-
5 fined in section 45K(c)(3))”.

6 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Sub-
7 section (f) of section 40A (relating to renewable diesel)
8 is amended by adding at the end the following new para-
9 graph:

10 “(4) CERTAIN AVIATION FUEL.—

11 “(A) IN GENERAL.—Except as provided in
12 the last three sentences of paragraph (3), the
13 term ‘renewable diesel’ shall include fuel derived
14 from biomass which meets the requirements of
15 a Department of Defense specification for mili-
16 tary jet fuel or an American Society of Testing
17 and Materials specification for aviation turbine
18 fuel.

19 “(B) APPLICATION OF MIXTURE CRED-
20 ITS.—In the case of fuel which is treated as re-
21 newable diesel solely by reason of subparagraph
22 (A), subsection (b)(1) and section 6426(c) shall
23 be applied with respect to such fuel by treating
24 kerosene as though it were diesel fuel.”.

25 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to fuel produced, and sold or
4 used, after December 31, 2008.

5 (2) COPRODUCTION OF RENEWABLE DIESEL
6 WITH PETROLEUM FEEDSTOCK.—The amendments
7 made by subsection (c) shall apply to fuel produced,
8 and sold or used, after February 13, 2008.

9 **SEC. 123. CLARIFICATION THAT CREDITS FOR FUEL ARE**
10 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
11 **UNITED STATES PRODUCTION.**

12 (a) ALCOHOL FUELS CREDIT.—Subsection (d) of
13 section 40 is amended by adding at the end the following
14 new paragraph:

15 “(7) LIMITATION TO ALCOHOL WITH CONNEC-
16 TION TO THE UNITED STATES.—No credit shall be
17 determined under this section with respect to any al-
18 cohol which is produced outside the United States
19 for use as a fuel outside the United States. For pur-
20 poses of this paragraph, the term ‘United States’ in-
21 cludes any possession of the United States.”.

22 (b) BIODIESEL FUELS CREDIT.—Subsection (d) of
23 section 40A is amended by adding at the end the following
24 new paragraph:

1 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
2 TION TO THE UNITED STATES.—No credit shall be
3 determined under this section with respect to any
4 biodiesel which is produced outside the United
5 States for use as a fuel outside the United States.
6 For purposes of this paragraph, the term ‘United
7 States’ includes any possession of the United
8 States.”.

9 (c) EXCISE TAX CREDIT.—

10 (1) IN GENERAL.—Section 6426 is amended by
11 adding at the end the following new subsection:

12 “(i) LIMITATION TO FUELS WITH CONNECTION TO
13 THE UNITED STATES.—

14 “(1) ALCOHOL.—No credit shall be determined
15 under this section with respect to any alcohol which
16 is produced outside the United States for use as a
17 fuel outside the United States.

18 “(2) BIODIESEL AND ALTERNATIVE FUELS.—

19 No credit shall be determined under this section
20 with respect to any biodiesel or alternative fuel
21 which is produced outside the United States for use
22 as a fuel outside the United States.

23 For purposes of this subsection, the term ‘United States’
24 includes any possession of the United States.”.

1 hicle placed in service by the taxpayer during the taxable
2 year.

3 “(b) PER VEHICLE DOLLAR LIMITATION.—

4 “(1) IN GENERAL.—The amount determined
5 under this subsection with respect to any new quali-
6 fied plug-in electric drive motor vehicle is the sum
7 of the amounts determined under paragraphs (2)
8 and (3) with respect to such vehicle.

9 “(2) BASE AMOUNT.—The amount determined
10 under this paragraph is \$3,000.

11 “(3) BATTERY CAPACITY.—In the case of a ve-
12 hicle which draws propulsion energy from a battery
13 with not less than 5 kilowatt hours of capacity, the
14 amount determined under this paragraph is \$200,
15 plus \$200 for each kilowatt hour of capacity in ex-
16 cess of 5 kilowatt hours. The amount determined
17 under this paragraph shall not exceed \$2,000.

18 “(c) APPLICATION WITH OTHER CREDITS.—

19 “(1) BUSINESS CREDIT TREATED AS PART OF
20 GENERAL BUSINESS CREDIT.—So much of the credit
21 which would be allowed under subsection (a) for any
22 taxable year (determined without regard to this sub-
23 section) that is attributable to property of a char-
24 acter subject to an allowance for depreciation shall

1 be treated as a credit listed in section 38(b) for such
2 taxable year (and not allowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—

4 “(A) IN GENERAL.—For purposes of this
5 title, the credit allowed under subsection (a) for
6 any taxable year (determined after application
7 of paragraph (1)) shall be treated as a credit
8 allowable under subpart A for such taxable
9 year.

10 “(B) LIMITATION BASED ON AMOUNT OF
11 TAX.—In the case of a taxable year to which
12 section 26(a)(2) does not apply, the credit al-
13 lowed under subsection (a) for any taxable year
14 (determined after application of paragraph (1))
15 shall not exceed the excess of—

16 “(i) the sum of the regular tax liabil-
17 ity (as defined in section 26(b)) plus the
18 tax imposed by section 55, over

19 “(ii) the sum of the credits allowable
20 under subpart A (other than this section
21 and sections 23 and 25D) and section 27
22 for the taxable year.

23 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
24 MOTOR VEHICLE.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘new qualified
2 plug-in electric drive motor vehicle’ means a motor
3 vehicle—

4 “(A) the original use of which commences
5 with the taxpayer,

6 “(B) which is acquired for use or lease by
7 the taxpayer and not for resale,

8 “(C) which is made by a manufacturer,

9 “(D) which has a gross vehicle weight rat-
10 ing of less than 14,000 pounds,

11 “(E) which has received a certificate of
12 conformity under the Clean Air Act and meets
13 or exceeds the Bin 5 Tier II emission standard
14 established in regulations prescribed by the Ad-
15 ministrator of the Environmental Protection
16 Agency under section 202(i) of the Clean Air
17 Act for that make and model year vehicle, and

18 “(F) which is propelled to a significant ex-
19 tent by an electric motor which draws electricity
20 from a battery which—

21 “(i) has a capacity of not less than 4
22 kilowatt hours, and

23 “(ii) is capable of being recharged
24 from an external source of electricity.

1 “(2) EXCEPTION.—The term ‘new qualified
2 plug-in electric drive motor vehicle’ shall not include
3 any vehicle which is not a passenger automobile or
4 light truck if such vehicle has a gross vehicle weight
5 rating of less than 8,500 pounds.

6 “(3) MOTOR VEHICLE.—The term ‘motor vehi-
7 cle’ means any vehicle which is manufactured pri-
8 marily for use on public streets, roads, and highways
9 (not including a vehicle operated exclusively on a rail
10 or rails) and which has at least 4 wheels.

11 “(4) OTHER TERMS.—The terms ‘passenger
12 automobile’, ‘light truck’, and ‘manufacturer’ have
13 the meanings given such terms in regulations pre-
14 scribed by the Administrator of the Environmental
15 Protection Agency for purposes of the administra-
16 tion of title II of the Clean Air Act (42 U.S.C. 7521
17 et seq.).

18 “(5) BATTERY CAPACITY.—The term ‘capacity’
19 means, with respect to any battery, the quantity of
20 electricity which the battery is capable of storing, ex-
21 pressed in kilowatt hours, as measured from a 100
22 percent state of charge to a 0 percent state of
23 charge.

1 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
2 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
3 FOR CREDIT.—

4 “(1) IN GENERAL.—In the case of a new quali-
5 fied plug-in electric drive motor vehicle sold during
6 the phaseout period, only the applicable percentage
7 of the credit otherwise allowable under subsection
8 (a) shall be allowed.

9 “(2) PHASEOUT PERIOD.—For purposes of this
10 subsection, the phaseout period is the period begin-
11 ning with the second calendar quarter following the
12 calendar quarter which includes the first date on
13 which the number of new qualified plug-in electric
14 drive motor vehicles manufactured by the manufac-
15 turer of the vehicle referred to in paragraph (1) sold
16 for use in the United States after the date of the en-
17 actment of this section, is at least 60,000.

18 “(3) APPLICABLE PERCENTAGE.—For purposes
19 of paragraph (1), the applicable percentage is—

20 “(A) 50 percent for the first 2 calendar
21 quarters of the phaseout period,

22 “(B) 25 percent for the 3d and 4th cal-
23 endar quarters of the phaseout period, and

24 “(C) 0 percent for each calendar quarter
25 thereafter.

1 “(4) CONTROLLED GROUPS.—Rules similar to
2 the rules of section 30B(f)(4) shall apply for pur-
3 poses of this subsection.

4 “(f) SPECIAL RULES.—

5 “(1) BASIS REDUCTION.—The basis of any
6 property for which a credit is allowable under sub-
7 section (a) shall be reduced by the amount of such
8 credit (determined without regard to subsection (c)).

9 “(2) RECAPTURE.—The Secretary shall, by reg-
10 ulations, provide for recapturing the benefit of any
11 credit allowable under subsection (a) with respect to
12 any property which ceases to be property eligible for
13 such credit.

14 “(3) PROPERTY USED OUTSIDE UNITED
15 STATES, ETC., NOT QUALIFIED.—No credit shall be
16 allowed under subsection (a) with respect to any
17 property referred to in section 50(b)(1) or with re-
18 spect to the portion of the cost of any property
19 taken into account under section 179.

20 “(4) ELECTION NOT TO TAKE CREDIT.—No
21 credit shall be allowed under subsection (a) for any
22 vehicle if the taxpayer elects to not have this section
23 apply to such vehicle.

24 “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;
25 INTERACTION WITH AIR QUALITY AND MOTOR VEHI-

1 CLE SAFETY STANDARDS.—Rules similar to the rules
2 of paragraphs (6) and (10) of section 30B(h) shall
3 apply for purposes of this section.”.

4 (b) COORDINATION WITH ALTERNATIVE MOTOR VE-
5 HICLE CREDIT.—Section 30B(d)(3) is amended by adding
6 at the end the following new subparagraph:

7 “(D) EXCLUSION OF PLUG-IN VEHICLES.—
8 Any vehicle with respect to which a credit is al-
9 lowable under section 30 (determined without
10 regard to subsection (c) thereof) shall not be
11 taken into account under this section.”.

12 (c) CREDIT MADE PART OF GENERAL BUSINESS
13 CREDIT.—Section 38(b) is amended by striking “plus” at
14 the end of paragraph (32), by striking the period at the
15 end of paragraph (33) and inserting “, plus”, and by add-
16 ing at the end the following new paragraph:

17 “(34) the portion of the new qualified plug-in
18 electric drive motor vehicle credit to which section
19 30(c)(1) applies.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1)(A) Section 24(b)(3)(B), as amended by sec-
22 tion 104, is amended by striking “and 25D” and in-
23 serting “25D, and 30”.

24 (B) Section 25(e)(1)(C)(ii) is amended by in-
25 serting “30,” after “25D,”.

1 (C) Section 25B(g)(2), as amended by section
2 104, is amended by striking “and 25D” and insert-
3 ing “, 25D, and 30”.

4 (D) Section 26(a)(1), as amended by section
5 104, is amended by striking “and 25D” and insert-
6 ing “25D, and 30”.

7 (E) Section 1400C(d)(2) is amended by striking
8 “and 25D” and inserting “25D, and 30”.

9 (2) Section 30B(h)(1) is amended by striking
10 “section 30(c)(2)” and inserting “section 30(d)(3)”.

11 (3)(A) Section 53(d)(1)(B) is amended by strik-
12 ing clause (iii) and redesignating clause (iv) as
13 clause (iii).

14 (B) Subclause (II) of section 53(d)(1)(B)(iii),
15 as so redesignated, is amended by striking “in-
16 creased in the manner provided in clause (iii)”.

17 (4) Section 55(c)(3) is amended by striking
18 “30(b)(3),”.

19 (5) Section 1016(a)(25) is amended by striking
20 “section 30(d)(1)” and inserting “section 30(f)(1)”.

21 (6) Section 6501(m) is amended by striking
22 “section 30(d)(4)” and inserting “section 30(f)(4)”.

23 (7) The item in the table of sections for subpart
24 B of part IV of subchapter A of chapter 1 is amend-
25 ed to read as follows:

“Sec. 30. New qualified plug-in electric drive motor vehicles.”.

1 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
2 CREDIT AS A PERSONAL CREDIT.—

3 (1) IN GENERAL.—Paragraph (2) of section
4 30B(g) is amended to read as follows:

5 “(2) PERSONAL CREDIT.—The credit allowed
6 under subsection (a) for any taxable year (after ap-
7 plication of paragraph (1)) shall be treated as a
8 credit allowable under subpart A for such taxable
9 year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (A) of section 30C(d)(2)
12 is amended by striking “sections 27, 30, and
13 30B” and inserting “section 27”.

14 (B) Paragraph (3) of section 55(c) is
15 amended by striking “30B(g)(2),”.

16 (f) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to taxable years beginning
20 after December 31, 2008.

21 (2) TREATMENT OF ALTERNATIVE MOTOR VE-
22 HICLE CREDIT AS PERSONAL CREDIT.—The amend-
23 ments made by subsection (e) shall apply to taxable
24 years beginning after December 31, 2007.

1 (g) APPLICATION OF EGTRRA SUNSET.—The
2 amendment made by subsection (d)(1)(A) shall be subject
3 to title IX of the Economic Growth and Tax Relief Rec-
4 onciliation Act of 2001 in the same manner as the provi-
5 sion of such Act to which such amendment relates.

6 **SEC. 125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
7 **REDUCTION UNITS AND ADVANCED INSULA-**
8 **TION.**

9 (a) IN GENERAL.—Section 4053 is amended by add-
10 ing at the end the following new paragraphs:

11 “(9) IDLING REDUCTION DEVICE.—Any device
12 or system of devices which—

13 “(A) is designed to provide to a vehicle
14 those services (such as heat, air conditioning, or
15 electricity) that would otherwise require the op-
16 eration of the main drive engine while the vehi-
17 cle is temporarily parked or remains stationary
18 using one or more devices affixed to a tractor
19 or truck, and

20 “(B) is determined by the Administrator of
21 the Environmental Protection Agency, in con-
22 sultation with the Secretary of Energy and the
23 Secretary of Transportation, to reduce idling of
24 such vehicle at a motor vehicle rest stop or

1 other location where such vehicles are tempo-
2 rarily parked or remain stationary.

3 “(10) **ADVANCED INSULATION.**—Any insulation
4 that has an R value of not less than R35 per inch.”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 this section shall apply to sales or installations after the
7 date of the enactment of this Act.

8 **SEC. 126. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**
9 **COMMUTERS.**

10 (a) **IN GENERAL.**—Paragraph (1) of section 132(f)
11 is amended by adding at the end the following:

12 “(D) Any qualified bicycle commuting re-
13 imbursement.”.

14 (b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of
15 section 132(f) is amended by striking “and” at the end
16 of subparagraph (A), by striking the period at the end
17 of subparagraph (B) and inserting “, and”, and by adding
18 at the end the following new subparagraph:

19 “(C) the applicable annual limitation in
20 the case of any qualified bicycle commuting re-
21 imbursement.”.

22 (c) **DEFINITIONS.**—Paragraph (5) of section 132(f)
23 is amended by adding at the end the following:

24 “(F) **DEFINITIONS RELATED TO BICYCLE**
25 **COMMUTING REIMBURSEMENT.**—

1 “(i) QUALIFIED BICYCLE COMMUTING
2 REIMBURSEMENT.—The term ‘qualified bi-
3 cycle commuting reimbursement’ means,
4 with respect to any calendar year, any em-
5 ployer reimbursement during the 15-month
6 period beginning with the first day of such
7 calendar year for reasonable expenses in-
8 curred by the employee during such cal-
9 endar year for the purchase of a bicycle
10 and bicycle improvements, repair, and stor-
11 age, if such bicycle is regularly used for
12 travel between the employee’s residence
13 and place of employment.

14 “(ii) APPLICABLE ANNUAL LIMITA-
15 TION.—The term ‘applicable annual limita-
16 tion’ means, with respect to any employee
17 for any calendar year, the product of \$20
18 multiplied by the number of qualified bicy-
19 cle commuting months during such year.

20 “(iii) QUALIFIED BICYCLE COM-
21 MUTING MONTH.—The term ‘qualified bi-
22 cycle commuting month’ means, with re-
23 spect to any employee, any month during
24 which such employee—

1 “(I) regularly uses the bicycle for
2 a substantial portion of the travel be-
3 tween the employee’s residence and
4 place of employment, and

5 “(II) does not receive any benefit
6 described in subparagraph (A), (B),
7 or (C) of paragraph (1).”.

8 (d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-
9 graph (4) of section 132(f) is amended by inserting
10 “(other than a qualified bicycle commuting reimburse-
11 ment)” after “qualified transportation fringe”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2008.

15 **SEC. 127. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
16 **ERTY CREDIT.**

17 (a) INCREASE IN CREDIT AMOUNT.—Section 30C is
18 amended—

19 (1) by striking “30 percent” in subsection (a)
20 and inserting “50 percent”,

21 (2) by striking “\$30,000” in subsection (b)(1)
22 and inserting “\$50,000”, and

23 (3) by striking “\$1,000” in subsection (b)(2)
24 and inserting “\$2,000”.

1 (b) EXTENSION OF CREDIT.—Subsection (g) of sec-
2 tion 30C is amended to read as follows:

3 “(g) TERMINATION.—This section shall not apply to
4 any property placed in service after—

5 “(1) December 31 2017, in the case of property
6 relating to natural gas, compressed natural gas, or
7 liquified natural gas, and which is not of a character
8 subject to an allowance for depreciation,

9 “(2) December 31, 2014, in the case of—

10 “(A) property relating to hydrogen, and

11 “(B) property relating to natural gas, com-
12 pressed natural gas, or liquified natural gas,
13 and which is of a character subject to an allow-
14 ance for depreciation, and

15 “(3) December 31, 2010, in any other case.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 the date of the enactment of this Act, in taxable years
19 ending after such date.

1 **SEC. 128. CERTAIN INCOME AND GAINS RELATING TO AL-**
2 **COHOL FUELS AND MIXTURES, BIODIESEL**
3 **FUELS AND MIXTURES, AND ALTERNATIVE**
4 **FUELS AND MIXTURES TREATED AS QUALI-**
5 **FYING INCOME FOR PUBLICLY TRADED**
6 **PARTNERSHIPS.**

7 (a) **IN GENERAL.**—Subparagraph (E) of section
8 7704(d)(1) is amended by inserting “, or the transpor-
9 tation or storage of any fuel described in subsection (b),
10 (c), (d), or (e) of section 6426, or any alcohol fuel defined
11 in section 6426(b)(4)(A) or any biodiesel fuel as defined
12 in section 40A(d)(1)” after “timber”).

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

16 **Subtitle C—Energy Conservation**
17 **and Efficiency Provisions**

18 **SEC. 131. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

19 (a) **EXTENSION OF CREDIT.**—Section 25C(g) is
20 amended by striking “placed in service after December 31,
21 2007” and inserting “placed in service—

22 “(1) after December 31, 2007, and before Jan-
23 uary 1, 2009, or

24 “(2) after December 31, 2009.”.

25 (b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

1 (1) IN GENERAL.—Section 25C(d)(3) is amend-
2 ed—

3 (A) by striking “and” at the end of sub-
4 paragraph (D),

5 (B) by striking the period at the end of
6 subparagraph (E) and inserting “, and”, and

7 (C) by adding at the end the following new
8 subparagraph:

9 “(F) a stove which uses the burning of bio-
10 mass fuel to heat a dwelling unit located in the
11 United States and used as a residence by the
12 taxpayer, or to heat water for use in such a
13 dwelling unit, and which has a thermal effi-
14 ciency rating of at least 75 percent.”.

15 (2) BIOMASS FUEL.—Section 25C(d) is amend-
16 ed by adding at the end the following new para-
17 graph:

18 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
19 means any plant-derived fuel available on a renew-
20 able or recurring basis, including agricultural crops
21 and trees, wood and wood waste and residues (in-
22 cluding wood pellets), plants (including aquatic
23 plants), grasses, residues, and fibers.”.

24 (c) COORDINATION WITH CREDIT FOR QUALIFIED
25 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 25C(d), as amended by subsection (b), is amended
3 by striking subparagraph (C) and by redesignating
4 subparagraphs (D), (E), and (F) as subparagraphs
5 (C), (D), and (E), respectively.

6 (2) CONFORMING AMENDMENT.—Subparagraph
7 (C) of section 25C(d)(2) is amended to read as fol-
8 lows:

9 “(C) REQUIREMENTS AND STANDARDS
10 FOR AIR CONDITIONERS AND HEAT PUMPS.—
11 The standards and requirements prescribed by
12 the Secretary under subparagraph (B) with re-
13 spect to the energy efficiency ratio (EER) for
14 central air conditioners and electric heat
15 pumps—

16 “(i) shall require measurements to be
17 based on published data which is tested by
18 manufacturers at 95 degrees Fahrenheit,
19 and

20 “(ii) may be based on the certified
21 data of the Air Conditioning and Refrig-
22 eration Institute that are prepared in part-
23 nership with the Consortium for Energy
24 Efficiency.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenditures made after Decem-
3 ber 31, 2008.

4 **SEC. 132. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
5 **DUCTION.**

6 Subsection (h) of section 179D is amended by strik-
7 ing “December 31, 2008” and inserting “December 31,
8 2013”.

9 **SEC. 133. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
10 **ANCE CREDIT FOR APPLIANCES PRODUCED**
11 **AFTER 2007.**

12 (a) IN GENERAL.—Subsection (b) of section 45M is
13 amended to read as follows:

14 “(b) APPLICABLE AMOUNT.—For purposes of sub-
15 section (a)—

16 “(1) DISHWASHERS.—The applicable amount
17 is—

18 “(A) \$45 in the case of a dishwasher which
19 is manufactured in calendar year 2008 or 2009
20 and which uses no more than 324 kilowatt
21 hours per year and 5.8 gallons per cycle, and

22 “(B) \$75 in the case of a dishwasher
23 which is manufactured in calendar year 2008,
24 2009, or 2010 and which uses no more than
25 307 kilowatt hours per year and 5.0 gallons per

1 cycle (5.5 gallons per cycle for dishwashers de-
2 signed for greater than 12 place settings).

3 “(2) CLOTHES WASHERS.—The applicable
4 amount is—

5 “(A) \$75 in the case of a residential top-
6 loading clothes washer manufactured in cal-
7 endar year 2008 which meets or exceeds a 1.72
8 modified energy factor and does not exceed a
9 8.0 water consumption factor,

10 “(B) \$125 in the case of a residential top-
11 loading clothes washer manufactured in cal-
12 endar year 2008 or 2009 which meets or ex-
13 ceeds a 1.8 modified energy factor and does not
14 exceed a 7.5 water consumption factor,

15 “(C) \$150 in the case of a residential or
16 commercial clothes washer manufactured in cal-
17 endar year 2008, 2009, or 2010 which meets or
18 exceeds 2.0 modified energy factor and does not
19 exceed a 6.0 water consumption factor, and

20 “(D) \$250 in the case of a residential or
21 commercial clothes washer manufactured in cal-
22 endar year 2008, 2009, or 2010 which meets or
23 exceeds 2.2 modified energy factor and does not
24 exceed a 4.5 water consumption factor.

1 “(3) REFRIGERATORS.—The applicable amount
2 is—

3 “(A) \$50 in the case of a refrigerator
4 which is manufactured in calendar year 2008,
5 and consumes at least 20 percent but not more
6 than 22.9 percent less kilowatt hours per year
7 than the 2001 energy conservation standards,

8 “(B) \$75 in the case of a refrigerator
9 which is manufactured in calendar year 2008 or
10 2009, and consumes at least 23 percent but no
11 more than 24.9 percent less kilowatt hours per
12 year than the 2001 energy conservation stand-
13 ards,

14 “(C) \$100 in the case of a refrigerator
15 which is manufactured in calendar year 2008,
16 2009, or 2010, and consumes at least 25 per-
17 cent but not more than 29.9 percent less kilo-
18 watt hours per year than the 2001 energy con-
19 servation standards, and

20 “(D) \$200 in the case of a refrigerator
21 manufactured in calendar year 2008, 2009, or
22 2010 and which consumes at least 30 percent
23 less energy than the 2001 energy conservation
24 standards.”.

25 (b) ELIGIBLE PRODUCTION.—

1 (1) SIMILAR TREATMENT FOR ALL APPLI-
2 ANCES.—Subsection (c) of section 45M is amend-
3 ed—

4 (A) by striking paragraph (2),

5 (B) by striking “(1) IN GENERAL” and all
6 that follows through “the eligible” and inserting
7 “The eligible”,

8 (C) by moving the text of such subsection
9 in line with the subsection heading, and

10 (D) by redesignating subparagraphs (A)
11 and (B) as paragraphs (1) and (2), respectively,
12 and by moving such paragraphs 2 ems to the
13 left.

14 (2) MODIFICATION OF BASE PERIOD.—Para-
15 graph (2) of section 45M(c), as amended by para-
16 graph (1), is amended by striking “3-calendar year”
17 and inserting “2-calendar year”.

18 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
19 Subsection (d) of section 45M (defining types of energy
20 efficient appliances) is amended to read as follows:

21 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
22 For purposes of this section, the types of energy efficient
23 appliances are—

24 “(1) dishwashers described in subsection (b)(1),

1 “(2) clothes washers described in subsection
2 (b)(2), and

3 “(3) refrigerators described in subsection
4 (b)(3).”.

5 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

6 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-
7 tion 45M(e) is amended to read as follows:

8 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

9 The aggregate amount of credit allowed under sub-
10 section (a) with respect to a taxpayer for any tax-
11 able year shall not exceed \$75,000,000 reduced by
12 the amount of the credit allowed under subsection
13 (a) to the taxpayer (or any predecessor) for all prior
14 taxable years beginning after December 31, 2007.”.

15 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
16 AND CLOTHES WASHERS.—Paragraph (2) of section
17 45M(e) is amended to read as follows:

18 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
19 ERATORS AND CLOTHES WASHERS.—Refrigerators
20 described in subsection (b)(3)(D) and clothes wash-
21 ers described in subsection (b)(2)(D) shall not be
22 taken into account under paragraph (1).”.

23 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 45M(f) (defining qualified energy efficient appliance)
3 is amended to read as follows:

4 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
5 ANCE.—The term ‘qualified energy efficient appli-
6 ance’ means—

7 “(A) any dishwasher described in sub-
8 section (b)(1),

9 “(B) any clothes washer described in sub-
10 section (b)(2), and

11 “(C) any refrigerator described in sub-
12 section (b)(3).”.

13 (2) CLOTHES WASHER.—Section 45M(f)(3) is
14 amended by inserting “commercial” before “residen-
15 tial” the second place it appears.

16 (3) TOP-LOADING CLOTHES WASHER.—Sub-
17 section (f) of section 45M is amended by redesign-
18 nating paragraphs (4), (5), (6), and (7) as para-
19 graphs (5), (6), (7), and (8), respectively, and by in-
20 serting after paragraph (3) the following new para-
21 graph:

22 “(4) TOP-LOADING CLOTHES WASHER.—The
23 term ‘top-loading clothes washer’ means a clothes
24 washer which has the clothes container compartment

1 access located on the top of the machine and which
2 operates on a vertical axis.”.

3 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-
4 tion 45M(f)(6), as redesignated by paragraph (3), is
5 amended to read as follows:

6 “(6) MODIFIED ENERGY FACTOR.—The term
7 ‘modified energy factor’ means the modified energy
8 factor established by the Department of Energy for
9 compliance with the Federal energy conservation
10 standard.”.

11 (5) GALLONS PER CYCLE; WATER CONSUMP-
12 TION FACTOR.—Section 45M(f), as amended by
13 paragraph (3), is amended by adding at the end the
14 following:

15 “(9) GALLONS PER CYCLE.—The term ‘gallons
16 per cycle’ means, with respect to a dishwasher, the
17 amount of water, expressed in gallons, required to
18 complete a normal cycle of a dishwasher.

19 “(10) WATER CONSUMPTION FACTOR.—The
20 term ‘water consumption factor’ means, with respect
21 to a clothes washer, the quotient of the total weight-
22 ed per-cycle water consumption divided by the cubic
23 foot (or liter) capacity of the clothes washer.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to appliances produced after De-
3 cember 31, 2007.

4 **SEC. 134. ACCELERATED RECOVERY PERIOD FOR DEPREE-**
5 **CIATION OF SMART METERS AND SMART**
6 **GRID SYSTEMS.**

7 (a) IN GENERAL.—Section 168(e)(3)(D) is amended
8 by striking “and” at the end of clause (i), by striking the
9 period at the end of clause (ii) and inserting a comma,
10 and by inserting after clause (ii) the following new clauses:

11 “(iii) any qualified smart electric
12 meter, and

13 “(iv) any qualified smart electric grid
14 system.”.

15 (b) DEFINITIONS.—Section 168(i) is amended by in-
16 serting at the end the following new paragraph:

17 “(18) QUALIFIED SMART ELECTRIC METERS.—

18 “(A) IN GENERAL.—The term ‘qualified
19 smart electric meter’ means any smart electric
20 meter which is placed in service by a taxpayer
21 who is a supplier of electric energy or a pro-
22 vider of electric energy services.

23 “(B) SMART ELECTRIC METER.—For pur-
24 poses of subparagraph (A), the term ‘smart
25 electric meter’ means any time-based meter and

1 related communication equipment which is ca-
2 pable of being used by the taxpayer as part of
3 a system that—

4 “(i) measures and records electricity
5 usage data on a time-differentiated basis
6 in at least 24 separate time segments per
7 day,

8 “(ii) provides for the exchange of in-
9 formation between supplier or provider and
10 the customer’s electric meter in support of
11 time-based rates or other forms of demand
12 response,

13 “(iii) provides data to such supplier or
14 provider so that the supplier or provider
15 can provide energy usage information to
16 customers electronically, and

17 “(iv) provides net metering.

18 “(19) QUALIFIED SMART ELECTRIC GRID SYS-
19 TEMS.—

20 “(A) IN GENERAL.—The term ‘qualified
21 smart electric grid system’ means any smart
22 grid property used as part of a system for elec-
23 tric distribution grid communications, moni-
24 toring, and management placed in service by a

1 taxpayer who is a supplier of electric energy or
2 a provider of electric energy services.

3 “(B) SMART GRID PROPERTY.—For the
4 purposes of subparagraph (A), the term ‘smart
5 grid property’ means electronics and related
6 equipment that is capable of—

7 “(i) sensing, collecting, and moni-
8 toring data of or from all portions of a
9 utility’s electric distribution grid,

10 “(ii) providing real-time, two-way
11 communications to monitor or manage
12 such grid, and

13 “(iii) providing real time analysis of
14 and event prediction based upon collected
15 data that can be used to improve electric
16 distribution system reliability, quality, and
17 performance.”.

18 (c) CONTINUED APPLICATION OF 150 PERCENT DE-
19 CLINING BALANCE METHOD.—Paragraph (2) of section
20 168(b) is amended by striking “or” at the end of subpara-
21 graph (B), by redesignating subparagraph (C) as subpara-
22 graph (D), and by inserting after subparagraph (B) the
23 following new subparagraph:

24 “(C) any property (other than property de-
25 scribed in paragraph (3)) which is a qualified

1 smart electric meter or qualified smart electric
2 grid system, or”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to property placed in service after
5 the date of the enactment of this Act.

6 **SEC. 135. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
7 **DESIGN PROJECTS.**

8 (a) IN GENERAL.—Paragraph (8) of section 142(l)
9 is amended by striking “September 30, 2009” and insert-
10 ing “September 30, 2012”.

11 (b) TREATMENT OF CURRENT REFUNDING
12 BONDS.—Paragraph (9) of section 142(l) is amended by
13 striking “October 1, 2009” and inserting “October 1,
14 2012”.

15 (c) ACCOUNTABILITY.—The second sentence of sec-
16 tion 701(d) of the American Jobs Creation Act of 2004
17 is amended by striking “issuance,” and inserting
18 “issuance of the last issue with respect to such project,”.

19 **TITLE II—REVENUE PROVISIONS**

20 **SEC. 201. LIMITATION OF DEDUCTION FOR INCOME AT-**
21 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
22 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

23 (a) IN GENERAL.—Section 199(d) is amended by re-
24 designating paragraph (9) as paragraph (10) and by in-
25 serting after paragraph (8) the following new paragraph:

1 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
2 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
3 COME.—

4 “(A) IN GENERAL.—If a taxpayer has oil
5 related qualified production activities income for
6 any taxable year beginning after 2009, the
7 amount otherwise allowable as a deduction
8 under subsection (a) shall be reduced by 3 per-
9 cent of the least of—

10 “(i) the oil related qualified produc-
11 tion activities income of the taxpayer for
12 the taxable year,

13 “(ii) the qualified production activities
14 income of the taxpayer for the taxable
15 year, or

16 “(iii) taxable income (determined
17 without regard to this section).

18 “(B) OIL RELATED QUALIFIED PRODUC-
19 TION ACTIVITIES INCOME.—For purposes of
20 this paragraph, the term ‘oil related qualified
21 production activities income’ means for any tax-
22 able year the qualified production activities in-
23 come which is attributable to the production,
24 refining, processing, transportation, or distribu-

1 tion of oil, gas, or any primary product thereof
2 during such taxable year.

3 “(C) PRIMARY PRODUCT.—For purposes of
4 this paragraph, the term ‘primary product’ has
5 the same meaning as when used in section
6 927(a)(2)(C), as in effect before its repeal.”.

7 (b) CONFORMING AMENDMENT.—Section 199(d)(2)
8 (relating to application to individuals) is amended by
9 striking “subsection (a)(1)(B)” and inserting “subsections
10 (a)(1)(B) and (d)(9)(A)(iii)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2008.

14 **SEC. 202. ELIMINATION OF THE DIFFERENT TREATMENT**
15 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
16 **COME AND FOREIGN OIL RELATED INCOME**
17 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
18 **IT.**

19 (a) IN GENERAL.—Subsections (a) and (b) of section
20 907 (relating to special rules in case of foreign oil and
21 gas income) are amended to read as follows:

22 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN
23 TAX UNDER SECTION 901.—In applying section 901, the
24 amount of any foreign oil and gas taxes paid or accrued
25 (or deemed to have been paid) during the taxable year

1 which would (but for this subsection) be taken into ac-
2 count for purposes of section 901 shall be reduced by the
3 amount (if any) by which the amount of such taxes ex-
4 ceeds the product of—

5 “(1) the amount of the combined foreign oil
6 and gas income for the taxable year,

7 “(2) multiplied by—

8 “(A) in the case of a corporation, the per-
9 centage which is equal to the highest rate of tax
10 specified under section 11(b), or

11 “(B) in the case of an individual, a frac-
12 tion the numerator of which is the tax against
13 which the credit under section 901(a) is taken
14 and the denominator of which is the taxpayer’s
15 entire taxable income.

16 “(b) COMBINED FOREIGN OIL AND GAS INCOME;
17 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-
18 tion—

19 “(1) COMBINED FOREIGN OIL AND GAS IN-
20 COME.—The term ‘combined foreign oil and gas in-
21 come’ means, with respect to any taxable year, the
22 sum of—

23 “(A) foreign oil and gas extraction income,
24 and

25 “(B) foreign oil related income.

1 “(2) FOREIGN OIL AND GAS TAXES.—The term
2 ‘foreign oil and gas taxes’ means, with respect to
3 any taxable year, the sum of—

4 “(A) oil and gas extraction taxes, and

5 “(B) any income, war profits, and excess
6 profits taxes paid or accrued (or deemed to
7 have been paid or accrued under section 902 or
8 960) during the taxable year with respect to
9 foreign oil related income (determined without
10 regard to subsection (c)(4)) or loss which would
11 be taken into account for purposes of section
12 901 without regard to this section.”.

13 (b) RECAPTURE OF FOREIGN OIL AND GAS
14 LOSSES.—Paragraph (4) of section 907(c) (relating to re-
15 capture of foreign oil and gas extraction losses by re-
16 characterizing later extraction income) is amended to read
17 as follows:

18 “(4) RECAPTURE OF FOREIGN OIL AND GAS
19 LOSSES BY RECHARACTERIZING LATER COMBINED
20 FOREIGN OIL AND GAS INCOME.—

21 “(A) IN GENERAL.—The combined foreign
22 oil and gas income of a taxpayer for a taxable
23 year (determined without regard to this para-
24 graph) shall be reduced—

1 “(i) first by the amount determined
2 under subparagraph (B), and

3 “(ii) then by the amount determined
4 under subparagraph (C).

5 The aggregate amount of such reductions shall
6 be treated as income (from sources without the
7 United States) which is not combined foreign
8 oil and gas income.

9 “(B) REDUCTION FOR PRE-2009 FOREIGN
10 OIL EXTRACTION LOSSES.—The reduction
11 under this paragraph shall be equal to the less-
12 er of—

13 “(i) the foreign oil and gas extraction
14 income of the taxpayer for the taxable year
15 (determined without regard to this para-
16 graph), or

17 “(ii) the excess of—

18 “(I) the aggregate amount of for-
19 eign oil extraction losses for preceding
20 taxable years beginning after Decem-
21 ber 31, 1982, and before January 1,
22 2009, over

23 “(II) so much of such aggregate
24 amount as was recharacterized under
25 this paragraph (as in effect before

1 and after the date of the enactment of
2 the Energy Improvement and Extension
3 Act of 2008) for preceding tax-
4 able years beginning after December
5 31, 1982.

6 “(C) REDUCTION FOR POST-2008 FOREIGN
7 OIL AND GAS LOSSES.—The reduction under
8 this paragraph shall be equal to the lesser of—

9 “(i) the combined foreign oil and gas
10 income of the taxpayer for the taxable year
11 (determined without regard to this para-
12 graph), reduced by an amount equal to the
13 reduction under subparagraph (A) for the
14 taxable year, or

15 “(ii) the excess of—

16 “(I) the aggregate amount of for-
17 eign oil and gas losses for preceding
18 taxable years beginning after Decem-
19 ber 31, 2008, over

20 “(II) so much of such aggregate
21 amount as was recharacterized under
22 this paragraph for preceding taxable
23 years beginning after December 31,
24 2008.

1 “(D) FOREIGN OIL AND GAS LOSS DE-
2 FINED.—

3 “(i) IN GENERAL.—For purposes of
4 this paragraph, the term ‘foreign oil and
5 gas loss’ means the amount by which—

6 “(I) the gross income for the tax-
7 able year from sources without the
8 United States and its possessions
9 (whether or not the taxpayer chooses
10 the benefits of this subpart for such
11 taxable year) taken into account in
12 determining the combined foreign oil
13 and gas income for such year, is ex-
14 ceeded by

15 “(II) the sum of the deductions
16 properly apportioned or allocated
17 thereto.

18 “(ii) NET OPERATING LOSS DEDUC-
19 TION NOT TAKEN INTO ACCOUNT.—For
20 purposes of clause (i), the net operating
21 loss deduction allowable for the taxable
22 year under section 172(a) shall not be
23 taken into account.

24 “(iii) EXPROPRIATION AND CASUALTY
25 LOSSES NOT TAKEN INTO ACCOUNT.—For

1 purposes of clause (i), there shall not be
2 taken into account—

3 “(I) any foreign expropriation
4 loss (as defined in section 172(h) (as
5 in effect on the day before the date of
6 the enactment of the Revenue Rec-
7 onciliation Act of 1990)) for the tax-
8 able year, or

9 “(II) any loss for the taxable
10 year which arises from fire, storm,
11 shipwreck, or other casualty, or from
12 theft,

13 to the extent such loss is not compensated
14 for by insurance or otherwise.

15 “(iv) FOREIGN OIL EXTRACTION
16 LOSS.—For purposes of subparagraph
17 (B)(ii)(I), foreign oil extraction losses shall
18 be determined under this paragraph as in
19 effect on the day before the date of the en-
20 actment of the Energy Improvement and
21 Extension Act of 2008.”.

22 (c) CARRYBACK AND CARRYOVER OF DISALLOWED
23 CREDITS.—Section 907(f) (relating to carryback and car-
24 rryover of disallowed credits) is amended—

1 (1) by striking “oil and gas extraction taxes”
2 each place it appears and inserting “foreign oil and
3 gas taxes”, and

4 (2) by adding at the end the following new
5 paragraph:

6 “(4) TRANSITION RULES FOR PRE-2009 AND
7 2009 DISALLOWED CREDITS.—

8 “(A) PRE-2009 CREDITS.—In the case of
9 any unused credit year beginning before Janu-
10 ary 1, 2009, this subsection shall be applied to
11 any unused oil and gas extraction taxes carried
12 from such unused credit year to a year begin-
13 ning after December 31, 2008—

14 “(i) by substituting ‘oil and gas ex-
15 traction taxes’ for ‘foreign oil and gas
16 taxes’ each place it appears in paragraphs
17 (1), (2), and (3), and

18 “(ii) by computing, for purposes of
19 paragraph (2)(A), the limitation under
20 subparagraph (A) for the year to which
21 such taxes are carried by substituting ‘for-
22 eign oil and gas extraction income’ for ‘for-
23 eign oil and gas income’ in subsection (a).

24 “(B) 2009 CREDITS.—In the case of any
25 unused credit year beginning in 2009, the

1 amendments made to this subsection by the En-
2 ergy Improvement and Extension Act of 2008
3 shall be treated as being in effect for any pre-
4 ceeding year beginning before January 1, 2009,
5 solely for purposes of determining how much of
6 the unused foreign oil and gas taxes for such
7 unused credit year may be deemed paid or ac-
8 crued in such preceding year.”.

9 (d) CONFORMING AMENDMENT.—Section 6501(i) is
10 amended by striking “oil and gas extraction taxes” and
11 inserting “foreign oil and gas taxes”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2008.

15 **SEC. 203. BROKER REPORTING OF CUSTOMER’S BASIS IN**
16 **SECURITIES TRANSACTIONS.**

17 (a) IN GENERAL.—

18 (1) BROKER REPORTING FOR SECURITIES
19 TRANSACTIONS.—Section 6045 is amended by add-
20 ing at the end the following new subsection:

21 “(g) ADDITIONAL INFORMATION REQUIRED IN THE
22 CASE OF SECURITIES TRANSACTIONS, ETC.—

23 “(1) IN GENERAL.—If a broker is otherwise re-
24 quired to make a return under subsection (a) with
25 respect to the gross proceeds of the sale of a covered

1 security, the broker shall include in such return the
2 information described in paragraph (2).

3 “(2) ADDITIONAL INFORMATION REQUIRED.—

4 “(A) IN GENERAL.—The information re-
5 quired under paragraph (1) to be shown on a
6 return with respect to a covered security of a
7 customer shall include the customer’s adjusted
8 basis in such security and whether any gain or
9 loss with respect to such security is long-term
10 or short-term (within the meaning of section
11 1222).

12 “(B) DETERMINATION OF ADJUSTED
13 BASIS.—For purposes of subparagraph (A)—

14 “(i) IN GENERAL.—The customer’s
15 adjusted basis shall be determined—

16 “(I) in the case of any security
17 (other than any stock for which an av-
18 erage basis method is permissible
19 under section 1012), in accordance
20 with the first-in first-out method un-
21 less the customer notifies the broker
22 by means of making an adequate
23 identification of the stock sold or
24 transferred, and

1 “(II) in the case of any stock for
2 which an average basis method is per-
3 missible under section 1012, in ac-
4 cordance with the broker’s default
5 method unless the customer notifies
6 the broker that he elects another ac-
7 ceptable method under section 1012
8 with respect to the account in which
9 such stock is held.

10 “(ii) EXCEPTION FOR WASH SALES.—
11 Except as otherwise provided by the Sec-
12 retary, the customer’s adjusted basis shall
13 be determined without regard to section
14 1091 (relating to loss from wash sales of
15 stock or securities) unless the transactions
16 occur in the same account with respect to
17 identical securities.

18 “(3) COVERED SECURITY.—For purposes of
19 this subsection—

20 “(A) IN GENERAL.—The term ‘covered se-
21 curity’ means any specified security acquired on
22 or after the applicable date if such security—

23 “(i) was acquired through a trans-
24 action in the account in which such secu-
25 rity is held, or

1 “(ii) was transferred to such account
2 from an account in which such security
3 was a covered security, but only if the
4 broker received a statement under section
5 6045A with respect to the transfer.

6 “(B) SPECIFIED SECURITY.—The term
7 ‘specified security’ means—

8 “(i) any share of stock in a corpora-
9 tion,

10 “(ii) any note, bond, debenture, or
11 other evidence of indebtedness,

12 “(iii) any commodity, or contract or
13 derivative with respect to such commodity,
14 if the Secretary determines that adjusted
15 basis reporting is appropriate for purposes
16 of this subsection, and

17 “(iv) any other financial instrument
18 with respect to which the Secretary deter-
19 mines that adjusted basis reporting is ap-
20 propriate for purposes of this subsection.

21 “(C) APPLICABLE DATE.—The term ‘appli-
22 cable date’ means—

23 “(i) January 1, 2011, in the case of
24 any specified security which is stock in a

1 corporation (other than any stock de-
2 scribed in clause (ii)),

3 “(ii) January 1, 2012, in the case of
4 any stock for which an average basis meth-
5 od is permissible under section 1012, and

6 “(iii) January 1, 2013, or such later
7 date determined by the Secretary in the
8 case of any other specified security.

9 “(4) TREATMENT OF S CORPORATIONS.—In the
10 case of the sale of a covered security acquired by an
11 S corporation (other than a financial institution)
12 after December 31, 2011, such S corporation shall
13 be treated in the same manner as a partnership for
14 purposes of this section.

15 “(5) SPECIAL RULES FOR SHORT SALES.—In
16 the case of a short sale, reporting under this section
17 shall be made for the year in which such sale is
18 closed.”.

19 (2) BROKER INFORMATION REQUIRED WITH RE-
20 SPECT TO OPTIONS.—Section 6045, as amended by
21 subsection (a), is amended by adding at the end the
22 following new subsection:

23 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

24 “(1) EXERCISE OF OPTION.—For purposes of
25 this section, if a covered security is acquired or dis-

1 posed of pursuant to the exercise of an option that
2 was granted or acquired in the same account as the
3 covered security, the amount received with respect to
4 the grant or paid with respect to the acquisition of
5 such option shall be treated as an adjustment to
6 gross proceeds or as an adjustment to basis, as the
7 case may be.

8 “(2) LAPSE OR CLOSING TRANSACTION.—In the
9 case of the lapse (or closing transaction (as defined
10 in section 1234(b)(2)(A))) of an option on a speci-
11 fied security or the exercise of a cash-settled option
12 on a specified security, reporting under subsections
13 (a) and (g) with respect to such option shall be
14 made for the calendar year which includes the date
15 of such lapse, closing transaction, or exercise.

16 “(3) PROSPECTIVE APPLICATION.—Paragraphs
17 (1) and (2) shall not apply to any option which is
18 granted or acquired before January 1, 2013.

19 “(4) DEFINITIONS.—For purposes of this sub-
20 section, the terms ‘covered security’ and ‘specified
21 security’ shall have the meanings given such terms
22 in subsection (g)(3).”.

23 (3) EXTENSION OF PERIOD FOR STATEMENTS
24 SENT TO CUSTOMERS.—

1 (A) IN GENERAL.—Subsection (b) of sec-
2 tion 6045 is amended by striking “January 31”
3 and inserting “February 15”.

4 (B) STATEMENTS RELATED TO SUB-
5 STITUTE PAYMENTS.—Subsection (d) of section
6 6045 is amended—

7 (i) by striking “at such time and”,

8 and

9 (ii) by inserting after “other item.”

10 the following new sentence: “The written
11 statement required under the preceding
12 sentence shall be furnished on or before
13 February 15 of the year following the cal-
14 endar year in which the payment was
15 made.”.

16 (C) OTHER STATEMENTS.—Subsection (b)
17 of section 6045 is amended by adding at the
18 end the following: “In the case of a consolidated
19 reporting statement (as defined in regulations)
20 with respect to any customer, any statement
21 which would otherwise be required to be fur-
22 nished on or before January 31 of a calendar
23 year with respect to any item reportable to the
24 taxpayer shall instead be required to be fur-
25 nished on or before February 15 of such cal-

1 endar year if furnished with such consolidated
2 reporting statement.”.

3 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-
4 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS
5 METHOD.—Section 1012 is amended—

6 (1) by striking “The basis of property” and in-
7 serting the following:

8 “(a) IN GENERAL.—The basis of property”,

9 (2) by striking “The cost of real property” and
10 inserting the following:

11 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-
12 TATE TAXES.—The cost of real property”, and

13 (3) by adding at the end the following new sub-
14 sections:

15 “(c) DETERMINATIONS BY ACCOUNT.—

16 “(1) IN GENERAL.—In the case of the sale, ex-
17 change, or other disposition of a specified security
18 on or after the applicable date, the conventions pre-
19 scribed by regulations under this section shall be ap-
20 plied on an account by account basis.

21 “(2) APPLICATION TO CERTAIN REGULATED IN-
22 VESTMENT COMPANIES.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), any stock for which an aver-
25 age basis method is permissible under section

1 1012 which is acquired before January 1, 2012,
2 shall be treated as a separate account from any
3 such stock acquired on or after such date.

4 “(B) ELECTION FOR TREATMENT AS SIN-
5 GLE ACCOUNT.—If a regulated investment com-
6 pany elects to have this subparagraph apply
7 with respect to one or more of its stock-
8 holders—

9 “(i) subparagraph (A) shall not apply
10 with respect to any stock in such company
11 held by such stockholders, and

12 “(ii) all stock in such company which
13 is held by such stockholders shall be treat-
14 ed as covered securities described in sec-
15 tion 6045(g)(3) without regard to the date
16 of the acquisition of such stock.

17 A rule similar to the rule of the preceding sen-
18 tence shall apply with respect to a broker hold-
19 ing such stock as a nominee.

20 “(3) DEFINITIONS.—For purposes of this sec-
21 tion, the terms ‘specified security’ and ‘applicable
22 date’ shall have the meaning given such terms in
23 section 6045(g).

24 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-
25 ANT TO A PERIODIC STOCK INVESTMENT PLAN.—

1 “(1) IN GENERAL.—In the case of any stock ac-
2 quired after December 31, 2010, in connection with
3 a periodic stock investment plan, the basis of such
4 stock while held as part of such plan shall be deter-
5 mined using one of the methods which may be used
6 for determining the basis of stock in a regulated in-
7 vestment company.

8 “(2) TREATMENT AFTER TRANSFER.—In the
9 case of the transfer to another account of stock to
10 which paragraph (1) applies, such stock shall have
11 a cost basis in such other account equal to its basis
12 in the periodic stock investment plan immediately
13 before such transfer (properly adjusted for any fees
14 or other charges taken into account in connection
15 with such transfer).

16 “(3) SEPARATE ACCOUNTS; ELECTION FOR
17 TREATMENT AS SINGLE ACCOUNT.—Rules similar to
18 the rules of subsection (c)(2) shall apply for pur-
19 poses of this subsection.

20 “(4) PERIODIC STOCK INVESTMENT PLAN.—
21 For purposes of this subsection—

22 “(A) IN GENERAL.—The term ‘periodic
23 stock investment plan’ means—

24 “(i) any stock purchase plan, and

25 “(ii) any dividend reinvestment plan.

1 “(B) STOCK PURCHASE PLAN.—The term
2 ‘stock purchase plan’ means any arrangement
3 under which identical stock is periodically pur-
4 chased pursuant to a written plan.

5 “(C) DIVIDEND REINVESTMENT PLAN.—

6 “(i) IN GENERAL.—The term ‘divi-
7 dend reinvestment plan’ means any ar-
8 rangement under which dividends on any
9 stock are reinvested in stock identical to
10 the stock with respect to which the divi-
11 dends are paid.

12 “(ii) INITIAL STOCK ACQUISITION
13 TREATED AS ACQUIRED IN CONNECTION
14 WITH PLAN.—Stock shall be treated as ac-
15 quired in connection with a dividend rein-
16 vestment plan if such stock is acquired
17 pursuant to such plan or if the dividends
18 paid on such stock are subject to such
19 plan.”.

20 (c) INFORMATION BY TRANSFERORS TO AID BRO-
21 KERS.—

22 (1) IN GENERAL.—Subpart B of part III of
23 subchapter A of chapter 61 is amended by inserting
24 after section 6045 the following new section:

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
2 **WITH TRANSFERS OF COVERED SECURITIES**
3 **TO BROKERS.**

4 “(a) FURNISHING OF INFORMATION.—Every applica-
5 ble person which transfers to a broker (as defined in sec-
6 tion 6045(c)(1)) a security which is a covered security (as
7 defined in section 6045(g)(3)) in the hands of such appli-
8 cable person shall furnish to such broker a written state-
9 ment in such manner and setting forth such information
10 as the Secretary may by regulations prescribe for purposes
11 of enabling such broker to meet the requirements of sec-
12 tion 6045(g).

13 “(b) APPLICABLE PERSON.—For purposes of sub-
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-
18 retary in regulations.

19 “(c) TIME FOR FURNISHING STATEMENT.—Except
20 as otherwise provided by the Secretary, any statement re-
21 quired by subsection (a) shall be furnished not later than
22 15 days after the date of the transfer described in such
23 subsection.”.

24 (2) ASSESSABLE PENALTIES.—Paragraph (2)
25 of section 6724(d) is amended by redesignating sub-
26 paragraphs (I) through (DD) as subparagraphs (J)

1 through (EE), respectively, and by inserting after
2 subparagraph (H) the following new subparagraph:

3 “(I) section 6045A (relating to information
4 required in connection with transfers of covered
5 securities to brokers),”.

6 (3) CLERICAL AMENDMENT.—The table of sec-
7 tions for subpart B of part III of subchapter A of
8 chapter 61 is amended by inserting after the item
9 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-
curities to brokers.”.

10 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-
11 KERS.—

12 (1) IN GENERAL.—Subpart B of part III of
13 subchapter A of chapter 61, as amended by sub-
14 section (b), is amended by inserting after section
15 6045A the following new section:

16 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
17 **BASIS OF SPECIFIED SECURITIES.**

18 “(a) IN GENERAL.—According to the forms or regu-
19 lations prescribed by the Secretary, any issuer of a speci-
20 fied security shall make a return setting forth—

21 “(1) a description of any organizational action
22 which affects the basis of such specified security of
23 such issuer,

1 “(2) the quantitative effect on the basis of such
2 specified security resulting from such action, and

3 “(3) such other information as the Secretary
4 may prescribe.

5 “(b) TIME FOR FILING RETURN.—Any return re-
6 quired by subsection (a) shall be filed not later than the
7 earlier of—

8 “(1) 45 days after the date of the action de-
9 scribed in subsection (a), or

10 “(2) January 15 of the year following the cal-
11 endar year during which such action occurred.

12 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS
13 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-
14 cording to the forms or regulations prescribed by the Sec-
15 retary, every person required to make a return under sub-
16 section (a) with respect to a specified security shall furnish
17 to the nominee with respect to the specified security (or
18 certificate holder if there is no nominee) a written state-
19 ment showing—

20 “(1) the name, address, and phone number of
21 the information contact of the person required to
22 make such return,

23 “(2) the information required to be shown on
24 such return with respect to such security, and

1 “(3) such other information as the Secretary
2 may prescribe.

3 The written statement required under the preceding sen-
4 tence shall be furnished to the holder on or before January
5 15 of the year following the calendar year during which
6 the action described in subsection (a) occurred.

7 “(d) SPECIFIED SECURITY.—For purposes of this
8 section, the term ‘specified security’ has the meaning given
9 such term by section 6045(g)(3)(B). No return shall be
10 required under this section with respect to actions de-
11 scribed in subsection (a) with respect to a specified secu-
12 rity which occur before the applicable date (as defined in
13 section 6045(g)(3)(C)) with respect to such security.

14 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The
15 Secretary may waive the requirements under subsections
16 (a) and (c) with respect to a specified security, if the per-
17 son required to make the return under subsection (a)
18 makes publicly available, in such form and manner as the
19 Secretary determines necessary to carry out the purposes
20 of this section—

21 “(1) the name, address, phone number, and
22 email address of the information contact of such
23 person, and

24 “(2) the information described in paragraphs
25 (1), (2), and (3) of subsection (a).”.

1 (2) ASSESSABLE PENALTIES.—

2 (A) Subparagraph (B) of section
3 6724(d)(1) is amended by redesignating clause
4 (iv) and each of the clauses which follow as
5 clauses (v) through (xxiii), respectively, and by
6 inserting after clause (iii) the following new
7 clause:

8 “(iv) section 6045B(a) (relating to re-
9 turns relating to actions affecting basis of
10 specified securities),”.

11 (B) Paragraph (2) of section 6724(d), as
12 amended by subsection (c)(2), is amended by
13 redesignating subparagraphs (J) through (EE)
14 as subparagraphs (K) through (FF), respec-
15 tively, and by inserting after subparagraph (I)
16 the following new subparagraph:

17 “(J) subsections (c) and (e) of section
18 6045B (relating to returns relating to actions
19 affecting basis of specified securities),”.

20 (3) CLERICAL AMENDMENT.—The table of sec-
21 tions for subpart B of part III of subchapter A of
22 chapter 61, as amended by subsection (b)(3), is
23 amended by inserting after the item relating to sec-
24 tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-
ties.”.

1 (e) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall take effect on January 1, 2011.

5 (2) EXTENSION OF PERIOD FOR STATEMENTS
6 SENT TO CUSTOMERS.—The amendments made by
7 subsection (a)(3) shall apply to statements required
8 to be furnished after December 31, 2008.

9 **SEC. 204. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
10 **ITY TRUST FUND TAX.**

11 (a) INCREASE IN RATE.—

12 (1) INCREASE IN RATE.—Section 4611(c) is
13 amended by adding at the end the following new
14 paragraph:

15 “(3) INCREASE IN OIL SPILL LIABILITY TRUST
16 FUND FINANCING RATE.—For purposes of this sub-
17 section, the Oil Spill Liability Trust Fund financing
18 rate is increased (in addition to any other increase
19 under this subsection) by—

20 “(A) in the case of crude oil received or pe-
21 troleum products entered before January 1,
22 2011, 0.5 cent a barrel, and

23 “(B) in the case of crude oil received or
24 petroleum products entered after December 31,
25 2010, 1 cent a barrel.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply on and after the first
3 day of the first calendar quarter beginning more
4 than 60 days after the date of the enactment of this
5 Act.

6 (b) EXTENSION.—

7 (1) IN GENERAL.—Section 4611(f) (relating to
8 application of Oil Spill Liability Trust Fund financ-
9 ing rate) is amended by striking paragraphs (2) and
10 (3) and inserting the following new paragraph:

11 “(2) TERMINATION.—The Oil Spill Liability
12 Trust Fund financing rate shall not apply after De-
13 cember 31, 2017.”.

14 (2) CONFORMING AMENDMENT.—Section
15 4611(f)(1) is amended by striking “paragraphs (2)
16 and (3)” and inserting “paragraph (2)”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall take effect on the date of the
19 enactment of this Act.

20 **SEC. 205. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
21 **TAXES.**

22 The percentage under subparagraph (C) of section
23 401(1) of the Tax Increase Prevention and Reconciliation

- 1 Act of 2005 in effect on the date of the enactment of this
- 2 Act is increased by 10.5 percentage points.

